

Washington, Saturday, June 18, 1960

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# Rules and Regulations

### Title 7—AGRICULTURE

Chapter IX-Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

[Valencia Orange Reg. 202]

#### PART 922 - VALENCIA ORANGES GROWN IN ARIZONA AND DESIG-NATED PART OF CALIFORNIA

Limitation of Handling

§ 922.502 Valencia Orange Regulation 202.

(a) Findings. (1) Pursuant to the marketing agreement and Order No. 22, as amended (7 CFR Part 922), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee. established under the said marketing agreement and order, as amended, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges as hereinafter provided will tend to effec-. tuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure. and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 16, 1960.

(b) Order. (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period beginning at 12:01 a.m., P.s.t., June 19, 1960, and ending at 12:01 a.m., P.s.t., June 26, 1960, are hereby fixed as follows:

- (i) District 1: Unlimited movement;
- (ii) District 2: 575,000 cartons:
- (iii) District 3: Unlimited movement. (2) All Valencia oranges handled during the period specified in this section are subject also to all applicable size restrictions which are in effect pursuant to this part during such period.

(3) As used in this section, "handled," "handler," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in said marketing agreement and order, as amended.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 17, 1960.

FLOYD F. HEDLUND, eputy Director, Fruit and Vegetable Division, Agricul-Deputy tural Marketing Service.

[F.R. Doc. 60-5719; Filed, June 17, 1960; 11:28 a.m.]

[Lemon Reg. 851]

#### PART 953—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

§ 953.958 Lemon Regulation 851.

(a) Findings. (1) Pursuant to the marketing agreement, as amended, and Order No. 53, as amended (7 CFR Part 953; 23 F.R. 9053), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.; 68 Stat. 906, 1047), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons as hereinafter provided will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the

oranges; it is necessary, in order to public interest to give preliminary notice. engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (60 Stat. 237; 5 U.S.C. 1001 et seq.) because the time intervening between the date when information upon which this section is based become available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation: interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified: and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on June 14, 1960.

(b) Order. (1) The respective quantities of lemons grown in California and Arizona which may be handled during the period beginning at 12:01 a.m., P.s.t., June 19, 1960, and ending at 12:01 a.m., P.s.t., June 26, 1960, are hereby fixed as follows:

- (i) District 1: Unlimited movement:
- (ii) District 2: 418,500 cartons;
- (iii) District 3: Unlimited movement.
- (2) As used in this section, "handled," "District 1," "District 2," "District 3," and "carton" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 16, 1960.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-5690; Filed, June 17, 1960; 8:51 a.m.]

[Avocado Order 20]

## PART 969—AVOCADOS GROWN IN SOUTH FLORIDA

#### **Limitation of Shipments**

#### § 969.320 Avocado Order 20.

(a) Findings. (1) (i) Notice was published in the May 21, 1960, daily issue of the Federal Register (25 F.R. 4512) that consideration was being given to proposals regarding the establishment of grade and maturity regulations to be applicable to shipments of avocados pursuant to the provisions of the marketing agreement, as amended, and Order No. 69, as amended (7 CFR Part 969), regulating the handling of avocados grown in south Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 43 Stat. 31, as amended; 7 U.S.C. 601-674).

(ii) After consideration of all relevant matters presented, including the proposals set forth in the aforesaid notice which were submitted by the Avocado Administrative Committee (established pursuant to the said amended marketing agreement and order), it is hereby found that the regulation hereinafter set forth is in accordance with the provisions of the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to postpone the effective date of this section until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 1001-1011) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 20, 1960. This section establishes maturity and quality requirements designed to prevent the shipment of avocados which are immature and of undesirable quality; it is necessary that such requirements be made effective at the time and for the periods specified herein in order to effectuate the declared policy of the act; and compliance with this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) Order. (1) During the period beginning at 12:01 a.m., e.s.t., June 20, 1960, and ending at 12:01 a.m., e.s.t., April 30, 1961, no handler shall handle any avocados unless such avocados grade at least U.S. Combination.

(2) After the effective time of this section, no handler shall handle (i) any avocados of the Arue variety unless the individual fruit in each lot of such avocados weighs at least 14 ounces; and (ii) any of the varieties of avocados listed in Column 1 of the following Table I

prior to the date listed for the respective variety in Column 2 of such table and thereafter each such variety shall be

handled only in conformance with subparagraphs (3), (4), (5), and (8) of this paragraph:

TABLE I

<del> </del>	,	<del>,</del>		<del>,</del>			
Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(i)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Fuchs	6-20-60	14 oz.	6-27-60	12 oz.	7-18-60		
Pollock	7-11-60	35/16 in. 16 oz. 35/16 in.	8-15-60	31/16 in.		· .	ł
Hardee	7 -4-60	16 oz. 35/16 in.	8-15-60				]
Nadir	7-25-60	12 oz.	8-22-60			,	}
Trapp	8-15-60	12 oz. 37/6 in.	9-12-60				
Waldin	8-22-60	16 oz. 3% o in.	9- 5-60	14 oz. 39/16 in.	9-26-60		
Petersen	8-22-60	12 oz. 3916 in.	9-19-60				
Pinelli	8-29-60 7-18-60	16 oz. 14 oz.	9-19-60 8-15-60		ļ		
Tonnage	8-29-60	37/16 in. 14 oz.	9- 5-60	12 oz.	9-12-60	10 oz.	9-19-60
Booth 8	9-12-60	35/16 in. 16 oz. 33/16 in.	10- 3-60	3%16 in. 13 oz.	10-24-60	211/16 in.	
SimpsonB. Prince	10-10-60 10- 3-00	16 oz. 16 oz.	10-31-60 10-24-60	31/16 in.			
Lula	10- 3-60	18 oz. 3191e in.	10-17-60	14 oz. 34/16 in.	11- 7-60		
Booth 7	10- 3-60	16 oz. 319 je in.	10-24-60	0716 HI.			
Vaca	10-10-60	16 oz. 3% s in.	10-31-60			,	
Hickson	10-10-60	15 oz. 3916 in.	10-31-60		·	•	į.
Collinson	10 3-60	16 oz. 31 1/16 in.	10-31-60				
Avon	10-17-60	15 oz. 31946 in.	11- 7-60			<b>√</b>	
Blair	10-10-60	16 oz. 3 <sup>1</sup> 1/16 in.	10-31-60				
Blair Winslowson	10-17-60	14 oz. 18 oz. 314/16 in.	10-24-60 11- 7-60	٠	1		
MonroeHall	10-24-60 10-17-60	24 oz. 20 oz.	11-21-60 10-31-60				
Herman	10-24-60	3%6 in. 16 oz. 3%6 in.	11-21-60		]		
Booth 10	10- 3-60	16 oz. 31916 in.	10-24-60		1		l
Booth 11	10-17-60	16 oz.	11- 7-60	•	İ		l
Ajax (B. 7B)	10-31-60	18 oz. 31316 in.	11-21-60		I		l
Booth 3	10-31-60	16 oz. 3% 6 in.	11-21-60				l
Booth 1	10-31-60 10-31-60	16 oz. 31 1/16 in.	11-21-60	,	f.		1
Taylor	10-31-60	14 oz. 341s in. 24 oz.	11-21-60		ľ		ľ
ChoquetteLinda	11-21-60	24 oz. 18 oz.	11-21-60 12-12-60		1		l
Byars	11-21-60	16 oz.	12-12-60				
Nabal		14 oz.	12-12-60				
	12-12-60	12 oz.	1- 2-61				
Schmidt.	1-23-61	00,	~ - ~				
Itzamna	2-20-61					İ	

(3) During the period from 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 2 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 4 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 3 of such table or is of at least the diameter specified for such variety in said Column 3;

(4) During the period from 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 4 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 6 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 5 of such table or is of at least the diameter specified for such variety in said Column 5;

(5) During the period from 12:01 a.m., e.s.t., of the date listed for the re-

spective variety in Column 6 of Table I and 12:01 a.m., e.s.t., of the date listed for the respective variety in Column 8 of such table, no handler shall handle any avocados of such variety unless the individual fruit weighs at least the ounces specified for the respective variety in Column 7 of such table or is of at least the diameter specified for such variety in said Column 7;

(6) After the effective time of this section, the varieties of the West Indian type of avocados not listed in said Table I shall not be handled except in accordance with the following terms and conditions:

(i) During the period beginning at 12:01 a.m., e.s.t., June 20, 1960, and ending at 12:01 a.m., e.s.t., June 27, 1960, the individual fruit in each lot of such avocados shall weigh at least 16 ounces.

(ii) During the period beginning at 12:01 a.m., e.s.t., June 27, 1960, and ending at 12:01 a.m., e.s.t., July 25, 1960, the individual fruit in each lot of such avocados shall weigh at least 14 ounces.

(iii) During the period beginning at 12:01 a.m., e.s.t., July 25, 1960, and ending at 12:01 a.m., e.s.t., September 12, 1960, the individual fruit in each lot of such avocados shall weigh at least 12 ounces.

(iv) Any lot of such avocados may be handled without regard to the minimum weight requirements of this subparagraph (6) if the exterior seed-coat of the individual fruit is of a brown color characteristic of a mature avocado, or if such when mature, normally avocados, change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(7) After the effective time of this section, the varieties of avocados not covered by subparagraphs (2) through (6) of this paragraph shall not be handled except in accordance with the following terms and conditions:

(i) Such avocados shall not be handled prior to 12:01 a.m., e.s.t., September 19, 1960.

(ii) During the period beginning at 12:01 a.m., e.s.t., September 19, 1960, and ending at 12:01 a.m., e.s.t., October 17, 1960, the individual fruit in each lot of such avocados shall weigh at least 15 ounces.

(iii) During the period beginning at 12:01 a.m., e.s.t., October 17, 1960, and ending at 12:01 a.m., e.s.t., December 19, 1960, the individual fruit in each lot of such avocados shall weigh at least 13 ounces.

(iv) Any lot of such avocados may be handled without regard to the minimum weight requirements of this subparagraph (7) if the exterior seed-coat of the individual fruit is of a brown color characteristic of a mature avocado, or if such avocados, when mature, normally change color to any shade of red or purple and any portion of the skin of the individual fruit has changed to the color normal for that fruit when mature.

(8) Notwithstanding the provisions of subparagraphs (2) through (7) of this paragraph regarding the minimum weight or diameter for individual fruit, minimum up to 10 percent, by count, of the individual fruit contained in each lot may weigh less than the minimum specified weight and be less than the minimum specified diameter: Provided, That such avocados weigh not more than two ounces less than the applicable specified weight for the particular variety as prescribed in Columns 3, 5, or 7 of Table I or in subparagraphs (2), (6), and (7). Such tolerances shall be on a lot basis, but not to exceed double such tolerances shall be permitted for an individual container in a lot.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order, the term "diameter" shall means the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit, and the term "U.S. Combination" shall have the same meaning as set forth in the United States Standards for Florida Avocados (§§ 51.3050 to 51.3069 of this title).

The provisions of this regulation shall become effective at 12:01 a.m., e.s.t., June 20, 1960.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 16, 1960.

FLOYD F. HEDLUND, eputy Director, Fruit and Vegetable Division, Agricul-Deputu tural Marketing Service.

[F.R. Doc. 60-5667; Filed, June 17, 1960; 8:50 a.m.].

[Milk Order 98]

#### PART 998-MILK IN CORPUS CHRISTI, TEXAS, MARKETING AREA

#### Order Amending Order; Correction

In F.R. Doc. 60-2952, filed March 30, 1960, and published on March 31, 1960, in column 1, 25 F.R. 2725, in the last sentence of § 998.44(a), the phrase "assigned to Class II milk" should be corrected to read "assigned to Class I milk". (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Issued at Washington, D.C., this 15th day of June 1960, to be effective on and after the 1st day of April 1960.

> CLARENCE L. MILLER, Assistant Secretary.

[F.R. Doc. 60-5652; Filed, June 17, 1960; 8:51 a.m.]

[Apricot Order 5]

#### PART 1020-APRICOTS GROWN IN **DESIGNATED COUNTIES IN WASH-**INGTON

#### Limitation of Shipments

#### § 1020.305 Apricot Order 5.

(a) Findings. (1) Pursuant to the marketing agreement, and Order No. 120 (7 CFR Part 1020), regulating the handling of apricots grown in designated counties in Washington, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Washington Apricot Marketing Committee, established under the aforesaid marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of apricots, in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this section until 30 days after publication thereof in the Federal Register (5 U.S.C. 1001-1011) in that, as hereinafter set forth, the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than June 20, 1960. A reasonable determination as to the supply of, and the demand for, such apricots must await the development of the crop and adequate information thereon was not available to the Washington Apricot Marketing Committee until May 24, 1960; recommendation as to the need for, and the extent of, regulation of shipments of such apricots was made at the meeting of said committee on May 24. 1960, after consideration of all available information relative to the supply and demand conditions for such apricots, at which time the recommendation and supporting information were submitted to the Department; necessary supplemental data for consideration in connection with the specification of the provisions of this section were not available until June 1, 1960; shipments of the current crop of such apricots will begin on or about June 20, 1960, and this section should be applicable, insofar as practicable, to all shipments of such apricots in order to effectuate the declared policy of the act; and compliance with the provisions of this section will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

(b) Order. (1) During the period beginning at 12:01 a.m., P.s.t., June 20, 1960, and ending at 12:01 a.m., P.s.t., October 1, 1960, no handler shall handle any container of apricots unless:

(i) Such apricots grade not less than Washington No. 1: Provided, That such apricots are at least reasonably uniform in color:

(ii) Such apricots measure not less than 15% inches in diameter: Provided, That apricots of the Blenheim variety and apricots of the Tilton variety when packed in unlidded wooden boxes may measure not less than 11/4 inches, and: Provided further, That not more than 10 percent, by count, of such apricots may fail to meet the applicable minimum diameter requirement; and

(iii) Such apricots when packed in lidded containers are row-faced: Provided, That this requirement shall not apply to apricots in experimental containers approved pursuant to § 1020.110.

(2) All apricots handled during the period specified in this regulation are subject also to all applicable container restrictions which are in effect pursuant to this part during such period.

(3) Notwithstanding any other provisions of this section, any individual shipment of apricots which, in the aggregate, does not exceed 150 pounds, net weight, may be handled without regard to the restrictions specified in this paragraph (b) or in § 1020.41 or § 1020.55.

(4) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as given to the respective term in said marketing agreement and order; "diameter" and "Washington No. 1" shall have the same meaning as when used in the Washington State Department of Agriculture Standards for Apricots (1953); and "reasonably uniform in color" means that the apricots in the individual container do not show sufficient variation

in color to materially affect the general appearance of the apricots.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: June 15, 1960.

FLOYD F. HEDLUND, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[F.R. Doc. 60-5651; Filed, June 17, 1960; 8:51 a.m.]

## Title 13—BUSINESS CREDIT AND ASSISTANCE

Chapter I—Small Business Administration

[Amdt. 6]

#### PART 107-SMALL BUSINESS INVESTMENT COMPANIES

#### Miscellaneous Amendments

Pursuant to authority contained in sections 304 and 308. Public Law 85-699. 72 Stat. 694, as amended by the Small Business Investment Act Amendments of 1960, Public Law 86-502, there are amended, as set forth below, §§ 107.102-1(a), 107.103, 107.103-1, 107.301, 107.301-1(d), 107.302, 107.304, 107.304-1(h), and 107.304-1(i) of Part 107, of Subchapter B, Chapter I of Title 13 of the Code of Federal Regulations.

Information and effective date. The Small Business Investment Act of 1958 was amended by the Small Business Investment Act Amendments of 1960. These statutory amendments require certain amendments to the regulations as published in the FEDERAL REGISTER on December 4, 1958 (23 F.R. 9383). Simultaneously with the publishing of these amendments there is to be published in the FEDERAL REGISTER a notice of certain proposed changes in § 107.304-1 (a) through (g) of the regulations.1 Until these proposed changes become effective, the present § 107.304-1 (a) through (g) remain in effect. Since the amendments listed above are technical in nature to comply with the amendment to the Act and impose no additional controls on Licensees, these amendments and regulations shall become effective upon publication in the FEDERAL REGISTER.

The Small Business Investment Company Regulation (23 F.R. 9383), as amended (25 F.R. 1397, 2354, 3316, 5374), is hereby further amended by:

1. Adding the following new sentence to § 107.102-1(a): "Such Act has been amended by the Small Business Investment Act Amendments of 1960, which became effective June 11, 1960." As amended § 107.102-1(a) reads as follows:

#### § 107.102-1 Statement.

(a) The Small Business Investment Act of 1958 became law August 21, 1958. Such Act has been amended by the Small **Business Investment Act Amendments of** 

1960, which became effective June 11, 1960.

2. Deleting the paragraph numbered (4) in § 107.103 and inserting in lieu thereof a new paragraph (4). As amended § 107.103(4) reads as follows:

#### § 107.103 Statutory provisions; definitions.

- (4) The term "State" includes the several States, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia;
- 3. Adding the following to the first paragraph of § 107.103-1: ", as amended by the Small Business Investment Act Amendments of 1960." As amended § 107.103-1, first paragraph, reads as fol-

#### § 107.103-1 Definitions.

Act. "Act" means the Small Business Investment Act of 1958, as amended by the Small Business Investment Act Amendments of 1960.

#### § 107.103-1 [Amendment]

4. Deleting the last paragraph of § 107.103-1, defining "State."

#### § 107.301 [Amendment]

- 5. Deleting the paragraph numbered (9) of § 107.301 and respectively redesignating the paragraphs thereof numbered (10) and (11) as (9) and (10).
- 6. Deleting the second paragraph of § 107.301-1 and inserting in lieu thereof new paragraph. As amended § 107.301-1, second paragraph, reads as follows:

#### § 107.301-1 Charter requirements.

The charter of a Licensee shall constitute a grant of being or continued existence as a corporate entity, by a State or SBA, in the form of a permit or certificate of incorporation or amendment or otherwise, with the specific and sole powers and authority recited below. In the case of a charter issued by a State, such powers and authority can be expressed and granted in any manner consistent with the laws of such State and requirements of the State officials charged with such responsibilities, provided that each such charter shall contain the following provision:

This corporation is organized and chartered expressly for the purpose of operating under the Small Business Investment Act of 1958, as amended by the Small Business Investment Act Amendments of 1960, and will operate in the manner and shall have the powers, responsibilities and be subject to the limitations provided by said act and the regulations issued by the Small Business Administration thereunder.

7. Deleting § 107.301-1(d) and inserting in lieu thereof a new paragraph (d). As amended § 107.301-1(d) reads as follows:

#### § 107.301-1 Charter requirements. .

(d) To provide equity capital to smallbusiness concerns (as defined by SBA) under the conditions authorized by section 304 of the act and regulations, with the right to sell or dispose of securities so acquired in such manner and under

such terms and conditions as the Licensee shall determine.

8. Deleting the first word of § 107.302 (b) and inserting in lieu thereof the following: "Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, shares". As amended § 107.302(b) reads as

#### § 107.302 Statutory provisions; capital stock and subordinated debentures.

CAPITAL STOCK AND SUBORDINATED DEBENTURES

- (b) Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event shall any such bank hold shares in small business investment companies in an amount aggregating more than 1 percent of its capital and surplus.
- 9. Deleting § 107.304 and inserting in lieu thereof the following:

## § 107.304 Statutory provisions; provision of equity capital for small-business concerns.

PROVISION OF EQUITY CAPITAL FOR SMALL-BUSINESS CONCERNS

SEC. 304. (a) It shall be a function of each small business investment company to provide a source of equity capital for incorporated small-business concerns, in such manner and under such terms as the small business investment company may fix in accordance with the regulations of the Administration.

(b) Before any capital is provided to a small-business concern under this section-

- (1) the company may require such concern to refinance any or all of its outstanding indebtedness so that the company is the only holder of any evidence of indebtedness of such concern; and
- (2) except as provided in regulations issued by the Administration, such concern shall agree that it will not thereafter incur any indebtedness without first securing the approval of the company and giving the company the first opportunity to finance such indebtedness.
- (c) Whenever a company provides capital to a small-business concern under this section, such concern shall have the right, exercisable in whole or in such part as such concern may elect, to become a stockholderproprietor by investing in the capital stock of the company 5 per centum of the amount of the capital so provided, in accordance with regulations prescribed by the Administrator.

#### § 107.304-1 [Amendment]

10. Deleting § 107.304-1(h) in its en-

tirety. This paragraph is reserved.

11. Deleting the first sentence of \$107.304-1(i) and inserting in lieu thereof the following: "Section 304(a) of the act states that Licensees provide a source of equity capital for incorporated small-business concerns in accordance with the regulations of SBA." As amended § 107.304-1(i) reads as follows:

#### § 107.304-1 Sale and purchase of convertible debentures.

(i) Section 304(a) of the act states that Licensees provide a source of equity

<sup>&</sup>lt;sup>1</sup>See F.R. Document 60-5632 in Proposed Rule Making Section, infra.

capital for incorporated small-business concerns in accordance with the regulations of SBA. This requirement of the act will be satisfied by the inclusion in the Proposal for the prior approval of SBA of the standard terms, provisions and conditions, including the initial pricing policy, intended to be imposed by a Licensee generally in connection with the purchase of convertible debentures from small-business concerns. How-ever, under the free principles of the market place, a Licensee and small business concerns may negotiate the specific terms and conditions applicable to the financing of the particular small business concern without obtaining the participation in such negotiation or approval of SBA for each transaction, and may negotiate any special terms and conditions that are reasonably applicable to the situation without approval of SBA unless such special terms and conditions constitute a major variance from the policies of the Licensee stated in its Proposal and previously approved by SBA. The agreement on such special terms and conditions may be made conditional on approval from SBA. Requests for approval of any such special terms and conditions will receive prompt consideration and decision by SBA. (See also \$ 107.308-7(c):)

Dated: June 14, 1960.

PHILIP McCallum,
Administrator.

[F.R. Doc. 60-5631; Filed, June 17, 1960; 8:49 a.m.]

# Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER E-AIR NAVIGATION REGULATIONS

[Airspace Docket No. 60-WA-150]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### Modification

The purpose of this amendment to \$600.294 of the regulations of the Administrator is to redescribe Red Federal airway No. 94.

Red 94 is described in part utilizing the Otis AFB, Falmouth, Mass., nondirectional radio beacon located at latitude 41°36′15′′ N., longitude 70°32′31′′ W. This radio beacon was relocated on September 15, 1955, to latitude 41°36′04′′ N., longitude 70°35′00′′ W. Section 600.294 is being amended accordingly, so as to correctly describe Red 94. The control areas associated with this airway are so designated that they will automatically conform to the redescribed airway. Therefore, no amendment relating to control areas is necessary.

Since this action does not involve the designation of additional airspace and imposes no additional burden on the public, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative

Procedure Act is unnecessary and it may be made effective on less than 30 days notice

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following action is taken:

In the text of § 600.294 "latitude 41° 36'15", longitude 70°32'31"," is deleted and "latitude 41°36'04" N., longitude 70°35'00" W.," is substituted therefor.

This amendment shall become effective upon the date of publication in the Federal Register.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5593; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 60-LA-6]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### Modification

On April 7, 1960, a notice of proposed rule making was published in the Federal Register (25 F.R. 3003) stating that the Federal Aviation Agency was considering an amendment to § 600.6006 of the regulations of the Administrator which would modify the segment of VOR Federal airway No. 6 between Sacramento, Calif., and Lovelock, Nev.

As stated in the notice, Victor 6 presently extends in part from Sacramento, Calif., to Lovelock, Nev., including a north alternate between Sacramento and Reno, Nev. The Federal Aviation Agency is modifying Victor 6 by realigning it from the Sacramento VOR via a VOR to be installed approximately October 1, 1960, near Lake Tahoe, Calif., october 1, 1960, near Lake Tance, Canta, at latitude 39°10′50″ N., longitude 120°16′07″ W., to the Reno, Nev., VOR. In addition, the north alternate from Sacramento to Reno is being realigned. via the Sacramento VOR 038° True and the Reno VOR 257° True radials, and a new south alternate is being designated between the Reno VOR and the Lovelock VOR via a VOR to be installed approximately May 4, 1960, near Fallon, Nev., at latitude 39°30'58" N., longitude 118°59'47" W., direct station to station. Subsequent to the publication of the notice, the Fallon and Lake Tahoe VORs were rescheduled for commissioning approximately November 1, 1960.

United Air Lines commented on the failure of the proposal to include a direct route between Lake Tahoe and Fallon, which would by-pass Reno and suggested immediate action be initiated to establish this route. The Aircraft Owners and Pilots Association recommended that the Fallon VOR be relocated nearer the Fallon civil and military airports, to be utilized as a landing aid.

The action suggested by United Air Lines was published in the Federal Register on April 2, 1960, as a notice of proposed rule making in Airspace Docket No. 60-WA-63 (25 F.R. 2807). The Fal-

lon VOR will be usable as an approach aid to the Fallon airports at its present location. Establishment of this VOR south of its proposed site would result in an overlap of the airway into the Fallon Restricted Area (R-268).

No other adverse comments were received regarding the proposed amendments

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following action is taken:

In the text of § 600.6006 (24 F.R. 10504; 25 F.R. 582) "intersection of the Sacramento omnirange 055° True and the Reno omnirange 230° True radials; Reno, Nev., omnirange station, including a north alternate between the Sacramento, Calif., omnirange station via the Reno, Nev., omnirange station via the intersection of the Sacramento omnirange 040° True and the Reno VOR 257° radials; Lovelock, Nev., omnirange station;" is deleted and "Lake Tahoe, Calif., VOR; Reno, Nev., VOR, including a N alternate from the Sacramento VORTAC to the Reno VOR via the INT of the Sacramento VORTAC 038°-True and the Reno VOR 257° True radials; Lovelock, Nev., VORTAC, including a S alternate from the Reno VOR to the Lovelock VORTAC via the Fallon, Nev., VOR;" is substituted therefor.

This amendment shall become effective 0001 e.s.t., January 12, 1961.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5594; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 60-NY-26]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

#### Modification

The purpose of this amendment to \$600.6016 of the regulations of the Administrator is to change the name of the Shadyside, Md., VOR to the Nottingham, Md., VOR.

The above action is being taken in order to eliminate misunderstanding and confusion resulting from the assignment of the same descriptive name to two navigational aid facilities in close approximation to each other; the Shadyside VOR and the Shadyside non-directional radio beacon. The name change, Shadyside, Md., to Nottingham, Md., VOR is being reflected in the description of VOR Federal airway No. 16. No amendment to the control areas associated with this airway is necessary.

Since this amendment imposes no additional burden on the public, compliance with the notice, public procedure,

and effective date requirements of Section 4 of the Administrative Procedure Act is unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530). the following action is taken:

In § 600.6016 (24 F.R. 10507, 25 F.R. 171, 1819, 2388, 3022) "Shadyside, Md., VOR;" is deleted and "Nottingham, Md., VOR;" is substituted therefor.

This amendment shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5596; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 60-NY-2]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG-**MENTS** 

#### Revocation of a Segment of Federal 'Airway, Associated Control Areas and Reporting Point

On March 9. 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 2017) stating that the Federal Aviation Agency proposed to revoke the segment of Red Federal airway No. 13 between Providence, R.I., and Franklin, Mass., its associated control areas and reporting points.

Although the notice stated that the Franklin, Mass., Intersection (intersection of the north course of the Providence, R.I., radio range and the southwest course of the Boston, Mass., radio range) would be revoked as a designated reporting point, this action is unnecessary, as it has already been accomplished in Airspace Docket No. 60-WA-6 (25 F.R. 1240). However, the caption of § 601.4213, will require modification in order to correctly reflect the terminals of Red 13.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the Notice. the following actions are taken:
1. Section 600.213 (24 F.R. 10496,

10874) is amended to read:

\$ 600.213 Red Federal airway No. 13 (Crystal Lake, Pa., to Providence, Ř.I.).

From the Crystal Lake, Pa., RBN via the Stewart AFB, N.Y., RBN; Pough-keepsie, N.Y., RR; Hartford, Conn., RR to the Providence R.I., RR.

- 2. Section 601.213 (24 F.R. 10544. 10874) is amended to read:
- § 601.213 Red Federal airway No. 13 control areas (Crystal Lake, Pa., to Providence, R.I.)

All of Red Federal airway No. 13.

- 3. Section 601.4213 (24 F.R. 10594, 10874; 25 F.R. 1240) is amended to read:
- (Crystal Lake, Pa., to Providence, R.I.). § 601.4213 Red Federal airway No. 13

Poughkeepsie, N.Y., RR.

These amendments shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5595; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-LA-31]

#### PART 600-DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG-MENTS

#### Modification of Federal Airway and **Domestic VOR Reporting Point**

On March 12, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 2108) stating that the Federal Aviation Agency proposed to modify VOR Federal airway No. 6 between Oakland, Calif., and Sacramento, Calif., and redesignate Bay Point, Calif., Domestic VOR reporting point.

The Notice mentioned the necessity of redesignating the Bay Point, Calif., Domestic VOR reporting point as the intersection of the Oakland VOR 039° True and the Modesto, Calif., VOR 292° True radials. However, the Modesto VOR has been decommissioned. Action is taken herein to designate Bay Point Domestic VOR reporting point as the intersection of the Oakland VOR 039° True and the Napa, Calif., VOR 117° True radials.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice. the following actions are taken:

In the text of § 600.6006 (24 F.R. 10504, 25 F.R. 582) "From the INT of the Oakland omnirange 221° and the Salinas VOR 319° radials via the Oakland VOR; Sacramento, Calif., VOR, including a south alternate via the INT of the Oakland VOR 077° and the Sacramento VOR 192° radials;" is deleted and "From the INT of the Oakland, Calif., VORTAC 221° 221° True and the Salinas, Calif., VORTAC 319° True radials via the Oakland VORTAC; INT of the Oakland VORTAC 039° True and the Sacramento. Calif., VORTAC 212° True radials; Sacramento VORTAC, including a S alternate via the INT of the Oakland VORTAC 077° True and the Sacramento VORTAC 192° True radials;" is substituted therefor.

In the text of § 601.7001 (24 F.R. 10606) "Bay Point INT: The INT of the Oakland, Calif., VOR direct radial to the Sacramento, Calif., VOR with the Modesto, Calif., VOR 292° T radial." is deleted and "Bay Point INT: The INT of the Oakland, Calif., VORTAC 039° True and the Napa, Calif., VORTAC 117° True radials." is substituted therefor.

These amendments shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 Ù.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5598; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-KC-88]

#### PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL AREAS, CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEG-MENTS

#### Revocation of Federal Airway and **Associated Control Areas**

On March 2, 1960, a notice of proposed rule making was published in the Feb-ERAL REGISTER (25 F.R. 1830) stating that the Federal Aviation Agency was proposing to revoke the segment of VOR Federal airway No. 89 and its east alternate from Chadron, Nebr., to Rapid City, S. Dak., together with its associated control areas. Although not mentioned in the notice, the segment of Victor 89 between Chadron and Rapid City penetrates the Scenic Restricted Area (R-190) and is excluded from R-190 in the airway's description. Since this action revokes the portion of Victor 89

which penetrates R-190, the reference to R-190 in the description of Victor 89 is no longer required and is deleted.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, \$600.6089 (24 F.R. 10514, 9986, 25 F.R. 2009) and \$601.6089 (24 F.R. 10600) are amended to read:

## § 600.6089 VOR Federal airway No. 89 (Denver, Colo., to Chadron, Nebr.).

From the Denver, Colo., VOR via the Cheyenne, Wyo., VORTAC, including an east alternate from the Denver VOR to the Cheyenne VORTAC via the Gill, Colo., VOR and the INT of the Gill VOR 003° True and the Cheyenne VORTAC 131° True radials; to the Chadron, Nebr., VOR, including an east alternate from the Cheyenne VORTAC to the Chadron VOR via the Scottsbluff, Nebr., VORTAC.

#### § 601.6089 VOR Federal airway No. 89 control areas (Denver, Colo., to Chadron, Nebr.).

All of VOR Federal airway No. 89 including east alternates.

These amendments shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), and 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5599; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-KC-82]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

#### Designation of Federal Airway and Associated Control Areas

On January 30, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 815) stating that the Federal Aviation Agency proposed to designate VOR Federal airway No. 479 and its associated control areas from Wind Lake, Wis., to Milwaukee, Wis.

The Air Transport Association objected to the designation of the airway because there seemed to be no necessity for the airway. The ATA later withdrew its objection after a more detailed explanation was given as to why the airway was required for the management

of air traffic. The Aircraft Owners and Pilots Association offered no objections. However, they questioned why the airway was not designated direct between Northbrook, Ill., and Milwaukee. A Northbrook/Wind Lake airway segment is not required at this time nor would it be compatible with terminal traffic control procedures presently employed in the Chicago, Ill., terminal area.

No other adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) and for the reasons stated in the notice, Parts 600 (24 F.R. 10487) and 601 (24 F.R. 10530) are amended by adding the following:

#### § 600.6479 VOR Federal airway No. 479 (Wind Lake, Wis., to Milwaukee, Wis.).

From the INT of the Milwaukee, Wis., VOR 161° True and the Janesville, Wis., VOR 076° True radials to the Milwaukee VOR.

§ 601.6479 VOR Federal airway No. 479 control areas (Wind Lake, Wis., to Milwaukee, Wis.).

All of VOR Federal airway No. 479.

These amendments shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5600; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-KC-42]

## PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

# Extension and Modification of Federal Airways and Associated Control Areas

On October 2, 1959, a notice of proposed rule-making was published in the Federal Register (24 F.R. 7966) stating that the Federal Aviation Agency was proposing to extend VOR Federal airway No. 120 and its associated control areas from Miles City, Mont., to Mason City, Iowa via Dupree, S. Dak., Pierre, S. Dak., and Sioux Falls, S. Dak.

Subsequent to publication of the notice, it was determined that the proposed alignment of Victor 120 between Pierre, and Sioux Falls, will not permit

the required lateral separation with the western segment of the south alternate to VOR Federal airway No. 26, at the Pierre VOR, nor with the southern segment of the west alternate to VOR Federal airway No. 15, at the Sioux Falls VOR. Accordingly, these segments of alternate airways should be realigned to coincide with the enroute radials of Victor 120. Since these are minor changes of 004° and 003° respectively, they will be realigned herein concurrently with the designation of Victor 120.

Although not mentioned in the notice, the captions to §§ 600.6120 and 601.6120 are changed to reflect the correct location of the Mullan Pass VOR. The control areas associated with Victors 15 and 26 are so designated that they will automatically conform to the modified airways. Accordingly, no amendment relating to such control areas is necessary. However, the caption to § 600.6015, pertaining to control areas for Victor 15 is changed to reflect the actual terminals.

No adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530) §§ 600.6015 (24 F.R. 10509), 600.6120 (24 F.R. 10510), 601.6015 (24 F.R. 10598), 601.6120 (24 F.R. 10601) and 601.7001 (24 F.R. 10606) are amended as follows:

1. Section 600.6015 VOR Federal airway No. 15 (Galveston, Tex., to Minot, N. Dak.).

a. In the caption, delete "(Galveston, Tex., to Minot, N. Dak.)." and substitute therefor "(Galveston, Tex., to Neosho, Mo., and Kansas City, Mo., to Minot, N. Dak.)."

b. In the text, delete "INT of the Sioux City VOR 340° and the Sioux Falls VOR 169° radials; Sioux Falls, S. Dak., VOR, including an east alternate; Huron, S. Dak., VOR, including a west alternate; and substitute therefor "INT of the Sioux City VOR 340° True and the Sioux Falls, S. Dak., VORTAC 169° True radials; Sioux Falls VORTAC, including an east alternate; Huron, S. Dak., VOR, including a west alternate via the INT of the Sioux Falls VORTAC 288° True and the Huron VOR 140° True radials;".

2. In the text of § 600.6026 VOR Federal airway No. 26 (Cherokee, Wyo., to Cleveland, Ohio.), delete "Huron, S. Dak., VOR, including a south alternate;" and substitute therefor "Huron, S. Dak., VOR, including a south alternate via the Pierre VOR 106° True and the Huron, S. Dak., VOR 254° True radials;".

3. Section 600.6120 VOR Federal airway No. 120 (Mullan Pass., Mont., to Miles City, Mont.).

a. In the caption, delete "(Mullan Pass, Mont., to Miles City, Mont.)." and substitute therefor "(Mullan Pass, Idaho, to Mason City, Iowa)."

b. In the text, delete "to the Miles City, Mont., omnirange station." and substitute therefor "Miles City, Mont.,

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VORTAC; Dupree, S. Dak., VOR; Pierre, S. Dak., VOR; Sioux Falls, S. Dak., VORTAC, to the Mason City, Iowa, VORTAC."

4. In the caption of \$601.6015 VOR Federal airway No. 15 control areas (Galveston, Tex., to Minot, N. Dak.), delete "(Galveston, Tex., to Minot, N. Dak.)." and substitute therefor "(Galveston, Tex., to Neosho, Mo., and Kansas City, Mo., to Minot, N. Dak.)."

5. In the caption of § 601.6120 VOR Federal airway No. 120 control areas (Mullan Pass, Mont., to Miles City, Mont.), delete "(Mullan Pass, Mont., to Miles City, Mont.)." and substitute therefor "(Mullan Pass, Idaho, to Mason City, Iona)."

6. In the text of § 601.7001 Domestic VOR reporting, points, add "Dupree, S. Dak., VOR."

These amendments shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a) 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5597; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-NY-21]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

## Modification of Control Area Extension

On January 23, 1960, a notice of proposed rule making was published in the Federal Register (25 F.R. 611) stating that the Federal Aviation Agency proposed to modify the Quonset Point, R.I., control area extension.

Although the Notice stated that restricted areas within the modified control area extension would be included as control area, this is not considered feasible at this time because negotiations are presently in progress between the Federal Aviation Agency and the controlling agency of the restricted areas to modify or revoke the restricted areas concerned. Therefore, the modified Quonset Point control area extension will exclude the airspace which lies within the geographical limits of, and between the designated altitudes of, Restricted Areas (R-18) and (R-62) during their times of designation.

No adverse comments were received regarding the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendment having been published, therefore, pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), and for the reasons stated in the notice, § 601.1164 (24 F.R. 10555, 25 F.R. 109) is amended to read:

## § 601.1164 Control are a extension (Quonset Point, R.I.).

The airspace bounded on the W by VOR Federal airway No. 139, on the N by the 102° True radial of the Providence, R.I., VOR, on the E by the Falmouth, Mass., control area extension (§ 601.1295), on the S by control area extension 1169, excluding the portion which lies within the geographic limits of, and between the designated altitudes of, the Nashawena, Mass., Restricted Area (R-62) and the No Man's Land Island, Mass., Restricted Area (R-18) during these restricted areas' times of designation.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5589; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-KC-51]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

#### Modification of Control Zone

On January 5, 1960, a notice of proposed rule making was published in the FEDERAL REGISTER (25 F.R. 62) stating that the Federal Aviation Agency was considering an amendment to § 601.2054 of the regulations of the Administrator which would modify the Hutchinson, Kans., control zone.

As stated in the notice, the Hutchinson control zone is presently designated in part within an 8-mile radius of the Hutchinson Air National Guard Field, with an extension to the south based on the south course of the Hutchinson radio range extending from the radio range to a point 23 miles south of the radio range: to the north based on the north course of the Hutchinson radio range extending from the radio range to a point 10 miles north of the radio range; and to the southwest based on the Hutchinson . VOR 222° True radial extending from the Hutchinson Municipal Airport to a point 10 miles southwest of the VOR. The prescribed standard ADF instrument approach procedure for Hutchinson Air National Guard Field, based on the North Fork, Kans., radio beacon and the south course of the Hutchinson radio range is being revised to restrict descent to not less than 1,000 feet above the terrain until passing the North Fork radio beacon. Therefore, the retention of the control zone extension within 2 miles either side of the south course of the Hutchinson radio range extending from the radio range station to a point 23 miles south is not justified as an assignment of airspace, and the revocation thereof is in the public interest.

The Aircraft Owners and Pilots Association concurred in the revocation of the control zone extension based on the south course of the Hutchinson radio range. The AOPA, however, stated that it believed the control zone extension to the north based on the north course of the Hutchinson radio range extending from the radio range to a point 10 miles north of the range was not necessary as an assignment of controlled airspace for Hutchinson Air National Guard Field. The Federal Aviation Agency has this north control zone extension under review and, if it is determined that the retention of this extension is not justified as an assignment of airspace, will revoke it.

Although in the notice, the control zone extension to the southwest based on the Hutchinson VOR 222° True radial was described as ten miles beyond the VOR, it is necessary to extend it to twelve miles beyond the VOR to provide full protection to the instrument approach.

One other comment was received from the Department of the Air Force which concurred with the proposed amendment.

Interested persons have been afforded an opportunity to participate in the making of the rule herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), \$601.2054 (24 F.R. 10573) is amended to read:

## § 601.2054 Hutchinson, Kans., control zone.

Within a 5-mile radius of the geographical center (latitude 38°04′00′′ N., longitude 97°51′35′′ W.) of the Hutchinson, Kans., Municipal Airport, within an 8-mile radius of the geographical center (latitude 37°55′35′′ N., longitude 97°54′20′′ W.) of the Hutchinson Air National Guard Field, within 2 miles either side of the 222° True radial of the Hutchinson VORTAC extending from the Hutchinson Municipal Airport to a point 12 miles southwest of the VORTAC, and within 2 miles either side of the north course of the Hutchinson RR extending from the RR to a point 10 miles north.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5590; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 59-AN-2]

PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

## Modification of Control Zone and Control Area Extension

On December 12, 1959, a notice of proposed rule making was published in the Federal Register (24 F.R. 10081) stating that the Federal Aviation Agency was considering amendments to Part 601 and §§ 601.1114 and 601.1984 of the regulations of the Administrator which would modify the Bettles, Alaska, control area extension and control zone.

As stated in the notice, the Bettles control zone is designated within a 5-mile radius of Bettles Airport. The present Bettles control area extension is designated within 5 miles either side of the southeast course of the Bettles radio range extending from the radio range to a point 25 miles southeast. The Federal Aviation Agency is modifying the Bettles control zone by designating extensions to the south and southeast, based on the Bettles radio range to provide protection for aircraft conducting radio range and ADF instrument approaches. The Federal Aviation Agency is also designating an additional control area extension at Bettles to the south to provide protection for aircraft executing missed approach procedures in connection with ADF approaches. In addition, § 601.1984, relating to 5-mile radius zone is amended by deleting "Bettles, Alaska: Bettles Airport.".

This action will result in the Bettles control zone being designated within a 5-mile radius of the Bettles Airport, within 2 miles either side of the southeast course of the Bettles radio range from the 5-mile radius zone to a point 12 miles southeast of the radio range. and within 2 miles either side of a line bearing 211° True from the Bettles radio range from the 5-mile radius zone to a point 12 miles south of the radio range: and the Bettles control area extension will be designated within 5 miles either side of a line bearing 211° True from the Bettles radio range to a point 25 miles south of the radio range, and within 5 miles either side of the southeast course of the Bettles radio range to a point 25 miles southeast of the radio range.

The Aircraft Owners and Pilots Association objected to the control zone extension which would extend to a distance of 12 miles from the radio range because "The need for flight of aircraft at an altitude below 1,000 feet above ground at a distance beyond 5 miles is not established in this proposal". However, in accordance with the prescribed radio range and ADF instrument approaches, the procedure turn on the radio range procedure is completed at 2,000 feet MSL within 10 nautical miles and then descent is made to cross the range at 1,500 feet MSL which is 860 feet above the surface of the airport, and the procedure turn on the ADF procedure is completed at 3,000 feet MSL within 10 nautical miles and then descent is made to cross the range at 1,200 feet MSL which is 560 feet above the surface of the airport. Therefore, the Federal Aviation Agency considers that the control zone extensions based on the 211° True bearing and the southeast course of the radio range are required for the full protection of the instrument approaches.

No other adverse comments were received regarding the proposed amendments.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following actions are taken:

1. In Part 601 (24 F.R. 10530) add:

#### § 601.2460 Bettles, Alaska, control zone.

Within a 5-mile radius of the geographical center of Bettles Airport, Bettles, Alaska (latitude 66°55′00′′ N., longitude 151°31′00′′ W.), within 2 miles either side of the SE course of the Bettles radio range extending from the 5-mile radius zone to a point 12 miles SE of the RR, and within 2 miles either side of a line bearing 211° from the Bettles RR extending from the 5-mile radius zone to a point 12 miles S of the RR.

#### § 601.1984 [Amendment]

- 2. In § 601.1984 (24 F.R. 10570) delete "Bettles, Alaska: Bettles Airport."
- 3. Section 601.1114 is amended to read:

## § 601.1114 (24 F.R. 10552) Control area extension (Bettles, Alaska).

Within 5 miles either side of a line bearing 211° from the Bettles, Alaska, RR to a point 25 miles S of the RR, and within 5 miles either side of the SE course of the Bettles, Alaska, RR, extending from the RR to a point 25 miles SE.

These amendments shall become effective 0001 e.s.t., August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5591; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 60-WA-119]

# PART 601—DESIGNATION OF THE CONTINENTAL CONTROL AREA, CONTROL A R E A S , CONTROL ZONES, REPORTING POINTS, AND POSITIVE CONTROL ROUTE SEGMENTS

#### Modification of Control Zone

The purpose of this amendment to \$ 601.2358 of the regulations of the Administrator is to modify the Clovis, N. Mex., control zone.

The Clovis control zone presently includes the airspace within a 5-mile radius of Cannon AFB, N. Mex., and within 2 miles either side of a line bearing 222° True extending from the Air Force Base to a point 71/2 miles southwest. The Department of the Air Force has been advised the Federal Aviation Agency that the radio beacon located southwest of Cannon AFB, and the center of Cannon AFB, are both incorrectly depicted on aeronautical charts. This results in aeronautical charts showing the extended center line of the instrument runway as not being lined up with the radio beacon. The Federal Aviation Agency is modifying the control zone, to correct this erroneous depiction on aeronautical charts, by designating the Clovis control zone within a 5-mile radius of the geographical center of Cannon AFB (latitude 34°23'01" N., longitude 103°18'58" W.) and within 2 miles either side of a line bearing 231° True from the AFB extending from the 5-mile radius zone to the Cannon radio beacon (latitude 34°18'48" N., longitude 103°25'12" W.).

Since this amendment is minor in nature, and does not involve the designation of additional airspace, compliance with the notice, public procedure, and effective date requirements of section 4 of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), \$601.2358 (24 F.R. 10588) is amended to read:

#### § 601.2358 Clovis, N. Mex., control zone.

Within a 5-mile radius of the geographical center of Cannon Air Force Base (latitude 34°23'01" N., longitude 103°18'58" W.) and within 2 miles either side of a line bearing 231° True from the AFB extending from the 5-mile radius zone to the Cannon RBN.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5592; Filed, June 17, 1960; 8:45 a.m.]

[Airspace Docket No. 60-KC-8]

# PART 602 — ESTABLISHMENT OF CODED JET ROUTES AND NAVI-GATIONAL AIDS IN THE CONTINENTAL CONTROL AREA

#### **Modification of Coded Jet Route**

The purpose of this amendment to \$602.110 of the regulations of the Administrator is to modify the segment of L/MF coded jet route No. 10 between Kansas City, Mo., and Effingham, Ill.

The segment of J-10-L between Kansas City and Effingham is presently designated via the Belleville, Ill. (Scott AFB) radio range. The Department of the Air Force has advised that the Scott AFB radio range will be decommissioned in the near future. Therefore, it is necessary to realign the segment of J-10-L between Kansas City and Effingham via the St. Louis, Mo., radio range. Such action is being taken herein.

Since this amendment will not involve the designation of additional airspace and will impose no additional burden on the public, compliance with the Notice, and public procedures provisions of section 4 of the Administrative Procedure Act is unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (24 F.R. 4530), the following action is taken:

In the text of § 602.110 (25 F.R. 3708) "From Kansas City, Mo., RR via Belleville, Ill. (Scott AFB), RR; INT of Belleville (Scott AFB) RR NE course and Effingham RR W course;" is deleted and "From the Kansas City, Mo., RR via the St. Louis, Mo., RR;" is substituted therefor.

This amendment shall become effective 0001 e.s.t. August 25, 1960.

(Secs. 307(a), 313(a), 72 Stat. 749, 752; 49 U.S.C. 1348, 1354)

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5588; Filed, June 17, 1960; 8:45 a.m.]

# Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission
[Docket 7663 c.o.]

## PART 13—PROHIBITED TRADE PRACTICES

#### Albert Ehlers, Inc.

Subpart—Discriminating in price under Sec. 2, Clayton Act—Price Discrimination under 2(a): § 13.690 Additional deliveries not charged for; § 13.700 Arbitrary or improper functional discounts; § 13.710 Cash discounts; § 13.770 Quantity rebates or discounts; § 13.795 Warehouse rental and service; [Discriminating in price under Sec. 2, Clayton Act]—Payment for services or facilities for processing or sale under 2(d): § 13.824 Advertising expenses.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interpret or apply sec. 2, 49 Stat. 1527; 15 U.S.C. 13) [Cease and desist order Albert Ehlers, Inc., Brooklyn, New York, Docket 7663, April 27, 1960]

This proceeding was heard by a hearing examiner on the complaint of the

Commission charging a Brooklyn, N.Y., distributor of coffee, tea, spices, extracts, and dried foods to wholesale jobbers, chain stores, restaurants, etc., with discriminating in price between competing customers in violation of section 2(a) of the Clayton Act by means of (1) three classifications of price lists with the lowest applied to customers taking warehouse deliveries, the next to those taking delivery by drop shipment, and the highest to other independent retail grocers, and with additional discounts for cash to the first two classes, but none at all to others; (2) 2 percent payable quarterly for warehousing in addition to aforesaid lower prices; (3) end of year quantity rebates; (4) advertising and promotional allowances; (5) a coordinating discount of 1 percent of total purchases to customers stocking a full line of respondent's products; and (6) granting substantial quantities of free goods upon the opening of new stores; and in violation of section 2(d) of the Clayton Act by paying sums of money as compensation for advertising furnished in connection with the sale of respondent's products-such as \$20,000 paid to Food Fair Stores, Inc., Linden, N.J.; \$14,500 paid to Grand Union Co., Paterson, N.J.; and \$10,000 paid to Wakefern Food Corp., Elizabeth, N.J.—without making comparable allowances available to competitors of said favored customers.

Accepting a consent agreement, the hearing examiner made his initial decision and order to cease and desist which became on April 27 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That respondent Albert Ehlers, Inc., its officers, employees, agents and representatives, directly or through any corporate or other device, in connection with the sale or distribution of food products in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from discriminating directly or indirectly in the price of such products of like grade and quality:

1. By selling such products to any purchaser at net prices higher than the net prices charged any other purchaser competing in the resale or distribution of such products.

2. By selling such products to any purchaser at a price which is lower than the price charged any other purchaser engaged in the same line of commerce, where such lower price undercuts the price at which the purchaser charged the lower price may purchase such products of like grade and quality from another seller.

It is further ordered, That respondent Albert Ehlers, Inc., its officers, employees, agents and representatives, directly or through any corporate or other device, in the course of its business in commerce, as "commerce" is defined in the Clayton Act, as amended, do forthwith cease and desist from: Making or contracting to make, to or for the benefit of any customer, any payment of anything of value as compensation or in consideration for any advertising or other services or facilities furnished by or through such

customer, in connection with the handling, resale or offering for resale of products manufactured, sold, or offered for sale by respondent, unless such payment or consideration is affirmatively offered or otherwise made available on proportionally equal terms to all other customers competing in the resale or distribution of such products.

By "Decision of the Commission," etc., report of compliance was required as follows:

It is ordered, That respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

Issued: April 27, 1960.

By the Commission.

[SEAL] ROBE

ROBERT M. PARRISH, Secretary.

[F.R. Doc. 60-5621; Filed, June 17, 1960; 8:47 a.m.]

[Docket 7774 c.o. etc.]

## PART 13—PROHIBITED TRADE PRACTICES

#### Records, Inc., et al.

Records, Inc., et al., Docket 7774 c.o.; Time Records, Incorporated, et al., Docket 7765 c.o.; Edward S. Cohn trading as Lesco Distributors, Docket 7692 c.o.; Jamie Record Co., Docket 7724 c.o.; Volkwein Brothers, Inc., et al., Docket 7793 c.o.

Subpart—Bribing Customers' Employees: § 13.315 Employees of private concerns.

(Sec. 6, 38 Stat. 722; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended, 15 U.S.C. 45) [Cease and desist orders, Records, Inc., et al., Boston, Mass., Docket 7774, Apr. 14, 1960; Time Records, Incorporated, et al., New York, N.Y., Docket 7765, Apr. 21, 1960; Edward S. Cohn trading as Lesco Distributors, Philadelphia, Pa., Docket 7692, Apr. 26, 1960; Jamie Record Co., Philadelphia, Pa., Docket 7724, Apr. 26, 1960; and Volkwein Brothers, Inc., et al., Pittsburgh, Pa., Docket 7793, Apr. 26, 1960]

In the Matters of Records, Inc., a Corporation, and Cecil Stern, Individually, and as an Officer of Said Corporation; Time Records, Incorporated, a Corporation, Brent Music Corp., a Corporation, and Robert Shad, Individually, and as an Officer of Said Corporations; Edward S. Cohn, an Individual Trading as Lesco Distributors; Jamie Record Co., a Corporation; and Volkwein Brothers, Inc., a Corporation, and Carl R. Volkwein, and Walter E. Volkwein, Individually, and as Officers of Said Corporation

These cases were heard by hearing examiners on the complaints of the Commission charging record manufacturers and distributors with giving concealed "payola" to television and radio disc jockeys as inducement to play their records in order to increase sales.

Accepting consent agreements, the hearing examiners made their initial de-

cisions and orders to cease and desist which became, in due time, the decisions of the Commission.

The orders to cease and desist, combining the respondents in these five cases, are as follows:

It is ordered, That respondents Records, Inc., a corporation, and its officers, and Cecil Steen, individually, and as an officer of said corporation; Time Records, Incorporated, a corporation, Brent Music Corp., a corporation, and their officers, and Robert Shad, individually and as an officer of said corporations; Edward D. Cohn, an individual trading as Lesco Distributors (erroneously designated in the complaint as Edward S. Cohn), or by any other name; Jamie Record Co., a corporation, and its officers; and Volkwein Brothers, Inc., a corporation, and its officers, and Carl R. Volkwein and Walter E. Volkwein, individually, and as officers of said corporation; and respondents' agents, representatives and employees, directly or through any corporate or other device. in connection with phonograph records which have been distributed in commerce, or which are used by radio or television stations in broadcasting programs in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Giving or offering to give, without requiring public disclosure, any sum of money or other material consideration, to any person, directly or indirectly, to induce that person to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or any of them, have a financial interest of any nature;

(2) Giving or offering to give, without requiring public disclosure, any sum of money, or other material consideration, to any person, directly or indirectly. as an inducement to influence any employee of a radio or television broadcasting station, or to any other person, in any manner, to select, or participate in the selection of, and the broadcasting of, any such records in which respondents, or any of them, have a financial interest of any nature.

There shall be "public disclosure" within the meaning of this order, by any employee of a radio or television broadcasting station, or any other person, who selects or participates in the selection and broadcasting of a record when he shall disclose, or cause to have disclosed, to the listening public at the time the record is played, that his selection and broadcasting of such record are in consideration for compensation of some nature, directly or indirectly received by him or his employer.

By "Decision of the Commission", etc., in each case, reports of compliance were required as follows:

It is ordered, That respondents herein shall, within sixty (60) days after service upon them of these orders, file with the Commission reports in writing setting forth in detail the manner and form in which they have complied with the orders to cease and desist.

Issued: April 15, 1960 (D. 7774); April 27, 1960 (D. 7793); April 28, 1960 (D. 7765, 7692, 7724).

By the Commission.

[SEAL] ROBERT M. PARRISH, Secretary.

[F.R. Doc. 60-5622; Filed, June 17, 1960; 8:47 a.m.]

## Title 32—NATIONAL DEFENSE

Chapter V-Department of the Army SUBCHAPTER G-PROCUREMENT

PART 590—GENERAL PROVISIONS PART 596—CONTRACT CLAUSES

> PART 598—PATENTS AND **COPYRIGHTS**

> PART 602—GOVERNMENT **PROPERTY**

#### PÁRT 606-SUPPLEMENTAL **PROVISIONS**

#### Miscellaneous Amendments

- 1. Sections 590.111, 590.150, ลทส 590.601-4 are revised to read as follows:
- § 590.111 Reports of suspected criminal conduct and non-competitive practices.

Reports of possible violations of Federal criminal statutes in connection with procurement and related matters, including reports of possible fraud or violation of antitrust laws, will be made in accordance with Subpart F, Part 1 of this title and this part.

#### § 590.150 Administration and interpretation.

The administration and interpretation of Subchapter A, Chapter 1 of this title and this subchapter are the responsibility of the Deputy Chief of Staff for Logistics, Headquarters, Department of the Army (Chief, Contracts Branch).

#### § 590.601-4 Protection of lists.

See §1.601-4 of this title.

2. Revise § 590.603 and redesignate § 590.603-1 as § 590.603-50, as follows:

§ 590.603 Grounds for listing and treatment to be accorded listed concerns.

See § 1.603 of this title.

§ 590.603-50 Total restrictions.

٠ Revoke § 596,150-1, add new § 598.107-7, and revise paragraph (a) (1) in § 598.202-1, as follows:

#### § 596.150-1 Progress payments clause. [Revoked]

#### § 598.107-7 Contracts placed for NASA.

(a) Requests made by National Aeronautics and Space Administration (NASA), in accordance with § 9.107-7 (a) (1) of this title, requiring that the NASA "Property Rights in Inventions" clause be used in contracts for work which is funded only in part by NASA are predicated upon the basis that the project is a NASA project, or a project jointly planned by NASA and the Department of the Army to which the Department of the Army is contributing funds. Department of the Army contracts initiated prior to any proposed contribution of funds by NASA, without a request by NASA for change in specifications, shall contain the "Patent Rights" clause in § 9.107-2(b) or § 9.107-3 of this title, as appropriate, and the communication from NASA making funds available to the Department of the Army for such purpose will not be expected to require use of the NASA "Property Rights in Inventions" clause in such cases.

(b) Questions concerning whether a project is a NASA project or a Department of the Army project, or whether the work to be done under any particular contract is of the type which requires use of the NASA "Property Rights in Inventions" clause, may be coordinated directly with National Aeronautics and Space Administration, Office of the General Counsel for Patents.

#### § 598.202-1 Acquisition of data.

(a) General—(1) Data pricing requirements. Where data is to be required under a contract, Invitations for Bids and Requests for Proposals shall include the following clause:

#### DATA PRICING

Where data is specified for delivery, bidders are requested to insert opposite the data items the price of such data. If the price of the data is included in the price of the end items the statement "data price included in the price of the end items" may be used. If the bidder does not insert the price as requested above, or inserts the words "No Charge for Data", or similar language, the Government will consider and the bidder agrees that the data price is included in the cost of the appropriate end items.

4. Add new Subpart H to Part 602, as follows:

#### Subpart H-Transfer of Title to Equipment to Nonprofit Education or Research Institutions

Sec.

602.800 Scope of subpart. 602.800-50 Policy.

Purpose of the legislation. 602.801

602.802 Transfer of title.

602.802-50 Administrative requirements. 602.802-51 Statistical data.

AUTHORITY: §§ 602.800 to 602,802-51 issued under sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2801-2814, 70A Stat. 127-133; 10 U.S.C. 2301-2314.

#### § 602.800 Scope of subpart.

The policies and procedures set forth in this subpart and Subpart H, Part 13 of this title, apply only to transfers of title under research contracts. Policies and procedures applicable to transfer of title under research grants are stated in AR 70-5 (Administrative Army Regulations).

#### § 602.800-50 Policy.

Transfer of title to equipment may be effected at the time of acquisition, during the performance of the contract, or at the conclusion of the contract. Effort will be made to effect transfer of title to equipment at the time of acquisition in order to reduce administrative burden. The screening of equipment (exclusive of reportable production

equipment) as required in this part will be in relation to requirements, first, by the Department of Defense and, then, by other Government agencies for such equipment for use in research activities only.

#### § 602.801 Purpose of the legislation. See § 13.801 of this title.

#### § 602.802 Transfer of title.

In addition to the policy contained in § 13.802 of this title, the following will apply:

(a) The contracting officer may transfer to the contractor title to any item of equipment categorized under the provisions of § 13.802(a) (1) (i) and (ii) of this title, without screening or referral to higher authority for approval.

(b) As to any item of equipment which, because of its nature, it would be impracticable or uneconomical to remove from the contractor's po (§ 13.802(a) (2) (i) of this title): from possession

- (1) If the acquisition cost was \$1,000 or less, the contracting officer may transfer title to the contractor without screening or referral to higher authority; and
- (2) Regardless of the acquisition cost, the contracting officer may transfer title to the contractor upon approval by the Head of the Procuring Activity, his designee or designees, based upon a determination by the Head of the Procuring Activity, his designee or designees, that screening is not feasible.
- (c) If the acquisition cost of any item of equipment was in excess of \$1,000 but not in excess of \$25,000 (exclusive of that equipment referred to in § 602.802 (b) of this chapter and § 13.802(a) (2) (i) of this title, the contracting officer may transfer title to the contractor only upon approval by the Head of the Procuring activity, his designee or designees. based upon a determination by the Head of the Procuring Activity, his designee or designees, that:
- (1) The applicable criteria in § 13.802 (a) of this title have been met; and
- (2) After such screening as he considers necessary, there is no research requirement within the Department of Defense which would preclude such a transfer of title.

The determination shall be final and conclusive unless determined by a court of competent jurisdiction to have been fraudulent, capricious, or so grossly erroneous as necessarily to imply bad faith.

(d) If the acquisition cost of any item of equipment was in excess of \$25,000 and the item is reportable under AR 755-6 (Administrative Army Regulations), it shall be reported to the Armed Forces Supply Support Center (AFSSC) for additional screening for research requirements with interested Government agencies (§ 13.802(a)(2)(ii) of this title). If any such item of equipment is not reportable under AR 755-6, the procedure will be followed as set forth in paragraph (c) of this section.

## § 602.802-50 Administrative

Contract files will contain the following data:

- (a) Where any item of equipment has an acquisition cost of \$1,000 or less.
- (1) Written determination of the contracting officer that the applicable criteria in § 13.802(a) of this title have been met:
- (2) Documentation justifying such determination; and
- (3) A copy of the transfer of title instrument.
- (b) Where any item of equipment has an acquisition cost in excess of \$1,000 but not in excess of \$25,000.
- (1) Prior approval of the Head of the Procuring Activity or his designee, including a finding that after such "reasonable check" as he considers appropriate, that there is no Department of Defense research requirement which would preclude the proposed transfer, and that the applicable criteria of § 13.802(a) of this title have been met;
- (2) Written determination of the contracting officer, based on the foregoing approval: and
- (3) A copy of the transfer of title instrument.
- (c) Where any item of equipment has an acquisition cost in excess of \$25,000 (as defined in § 602.802(d)).
- (1) Identical documentation as required in paragraph (b) of this section, and
- (2) A finding that no research requirement by interested Government agencies exist which would preclude transfer of title to the contractor.

The office maintaining property accountability records will be advised of the transfer of title.

#### § 602.802-51 Statistical data.

In order to meet Congressional requirements for annual reporting of the transfers effected, heads of procuring activities will be prepared to submit when requested the following data:

(a) Names and locations of institutions receiving title to equipment.

- (b) Nomenclature of description of equipment transferred.
- (c) Acquisition cost of equipment transferred.
- 5. Revise §§ 606.201(a), 606.202, 606.-203-4(a)(4), and 606.208(c), as follows:

#### § 606.201 Documentary evidence of purchases.

(a) Requirement. All purchase transactions made by a contracting officer shall be evidenced by written contracts (§ 1.201-6 of this title) on approved contract forms, as prescribed in Part 16 of this title and Part 605 of this chapter, and in applicable procuring activity instructions, except those in which payments are made simultaneously with receipt of the supplies or services.

#### § 606.202 Execution of contracts; requirements.

(a) Availability of funds. Prior to the incurrence of an obligation, the contracting officer shall obtain a written statement from the individual (normally the finance and accounting officer) responsible for the underlying allotment. Such statement shall (1) contain a citation of the proper funds to be charged: (2) reflect that sufficient funds are avail-

able for payment of the contractual obligation to be incurred; and (3) be made a part of the contract file. (§ 590.-311 of this chapter.) All contracts, purchase orders, and delivery orders shall reflect the complete accounting classification citation chargeable. The signature of a contracting officer on a contract, purchase order, or delivery order constitutes assurance of the availability and sufficiency of the funds cited. The contracting officer shall be responsible for insuring that final delivery, acceptance and payment, under the terms of the contract, are completed prior to expiration of the period in which the funds cited in the contract are authorized for expenditure.

(b) Contracting Officer's signature. In the case of formal advertising, the personal signature of the contracting officer on the award consummates the contract. In the case of negotiated contracts, the contracting officer shall personally sign on behalf of the United States after the contractor has signed. except where otherwise required by the particular contract form. In addition, the contracting officer's rank or title shall be indicated. Proxy and facsimile signatures shall not be used.

(c) Signature by agents of contractors. Contracts executed on behalf of contractors by agents must be accompanied by evidence, satisfactory to the contracting officer, of the agent's authority to do so.

(d) Contracts withcorporations. Contracts with a corporation shall be executed in the official corporate name of the contractor. The amount and type of evidence to be required to determine the authority of a particular corporate officer to bind a corporation is for administrative determination by the contracting officer, subject to the limitation that the interest of the Government shall be protected. The contracting officer need not require that corporations execute a certificate provided he obtains other evidence which satisfactorily shows that the agent is empowered to bind the corporation. However, where a corporate certificate is considered necessary or desirable, it may be executed on a separate sheet, identified by contract number, and placed in the contract file.

(e) Contracts withpartnerships. Contracts entered into with partnerships shall be executed in the partnership name and shall enumerate the names of all the partners. The contract need be signed by only one partner provided the authority of the particular partner to effectively bind the partnership has been established. The amount and type of evidence to be required to determine the authority of a particular partner to bind a partnership is for administrative determination by the contracting officer. subject to the limitation that the interest of the Government shall be protected.

(f) Presigned contracts subject to approval. Contracts subject to the approval of higher authority as prescribed by this subchapter or by instructions of heads of procuring activities or both, are not binding on the Government until so approved, even though signed by both

parties.

(g) Contracts subject to approval of award. Where approval of award of a contract is required either by § 606.204 or by instructions of heads of procuring activities or both, no contract shall be entered into or signed by a contracting officer until approval to award the contract has been obtained.

(h) Date of signature. Where contracts, agreements, orders requiring acceptance, amendments, and similar documents require one or more signatures in order to constitute a valid obligation of funds, the signatures shall be affixed prior to the expiration of the period for obligation of the appropriation or fund involved; and the actual date when each signature is affixed shall be placed adjacent to the signature. However, the date of execution of a notice of award or letter contract shall be the date of obligation of the funds covered thereby, notwithstanding that a definitive contract is issued thereafter and is effective on the date of execution of the notice of award or letter contract.

#### § 606.203-4 System of numbering.

(a) Contracts. \* \* \*

(4) The figure "1" relates directly to the station number assigned to the activity and represents the first contract made by the particular activity. Contracts will be numbered by each activity in numerical sequence beginning with number 1 and going through 99,999 without regard to the fiscal year, type of contract, or procuring activity. Contracts issued at each activity beyond 99,999 will be identified by a new series of numbers distinguished by the use of the capital letter "A" at the end thereof. Any additional series thereafter will use the capital letter "B," "C," "D," etc. This subparagraph, of itself, does not require that a new series of numbers beginning with No. 1 be instituted; however, a new series of numbers will be instituted simultaneously with the assignment of a new station to an activity.

## § 606.208 Contracts pertaining to the Army Industrial Fund.

(c) Distribution. There will be retained at the site of operations the originals of all contracts and related documents supporting disbursements from, and collections for, the Army Industrial Fund at the installation or activity concerned, only when authorized by the Assistant Secretary of Defense (Comptroller) upon assignment of such activity for site audit by the General Accounting Office. Where a contract provides for payment from the Army Industrial Fund and other funds, an authenticated copy of the contract and related documents will be distributed as prescribed in § 606.206.

[C 22, APP, May 23, 1960] Sec. 3012, 70A Stat. 157; 10 U.S.C. 3012. Interpret or apply secs. 2301-2314, 70A Stat. 127-133; 10 U.S.C. 2301-23141

> BRUCE EASLEY, Major General, U.S. Army. Acting The Adjutant General.

[F.R. Doc. 60-5587; Filed, June 17, 1960; 8:45 a.m.]

## Title 43—PUBLIC LANDS: INTERIOR

Chapter I-Bureau of Land Management, Department of the Interior

APPENDIX-PUBLIC LAND ORDERS

[Public Land Order 2124]

[Wyoming 066609]

#### **WYOMING**

#### Partially Revoking Stock Driveway Withdrawals Nos. 63 and 128 (Wyoming Nos. 10 and 13)

By virtue of the authority vested in the Secretary of the Interior by section 10 of the act of December 29, 1916 (39 Stat. 865; 43 U.S.C. 300) as amended, it is ordered as follows:

The departmental order of February 10, 1919, establishing Stock Driveway Withdrawal No. 128, Wyoming No. 13, and the departmental order of July 7, 1932, enlarging Stock Driveway Withdrawal No. 63, Wyoming No. 10, are hereby revoked so far as they affect the following-described lands:

SIXTH PRINCIPAL MERIDIAN

STOCK DRIVEWAY WITHDRAWAL NO. 128

T. 46 N., R. 93 W., Sec. 13, lot 7.

The area described contains 37.99 acres.

STOCK DRIVEWAY WITHDRAWAL NO. 63

T. 55 N., R. 101 W.

Sec. 25, SE 4 NE 4 and N 1/2 N 1/2;

Sec. 26, N1/2 N1/2;

Sec. 27, N½N½; Sec. 28, N½N½;

Sec. 29, N1/2 NE1/4.

The areas described contain 680 acres. The lands are included in withdrawals for reclamation purposes either of April 20, 1928, in connection with the Shoshone Project, or of September 12, 1958, in connection with the Hanover-Bluff Unit, Missouri River Basin Project.

ROGER ERNST. Assistant Secretary of the Interior. JUNE 13, 1960.

[F.R. Doc. 60-5625; Filed, June 17, 1960; 8:49 a.m.]

[Public Land Order 2125]

[894072]

#### **NEVADA**

## Partially Revoking the Executive Order of March 8, 1920 (Public Water Reserve No. 70)

By virtue of the authority vested in the President by section 1 of the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered

1. The Executive order of March 8, 1920, which established Public Water Reserve No. 70, is hereby revoked so far as it affects the following-described land in Nevada:

MOUNT DIABLO MERIDIAN

T. 44 N., R. 52 E. Sec. 8, SE1/4 NE1/4.

The area described contains 40 acres. 2. The land is located within the boundaries of the Elko Grazing District in Elko County, Nevada, adjoining the Humboldt National Forest on the west slope of Bull Run Mountain. The elevation is between 6,000 and 7,000 feet, having an undulating type topography suitable chiefly for the grazing of livestock.

3. Subject to any existing valid rights and the requirements of applicable law, the land is hereby opened to filing of applications, selections, and locations in accordance with the following:

a. Applications and selections under the nonmineral public land laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, and selections will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications presented by persons other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) All valid applications and selections under the nonmineral public land laws presented prior to 10:00 a.m. on July 19, 1960, will be considered as simultaneously filed at that hour. Rights under such applications and selections filed after that hour will be governed by the time of filing.

b. The land has been open to applications and offers under the mineral leasing laws and to locations under the mining laws for metalliferous minerals. They will be open to location for nonmetalliferous minerals at 10:00 a.m. on July 19, 1960.

4. Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the land shall be addressed to the Manager, Land Office, Bureau of Land Management, Reno, Nevada.

\*ROGER ERNST.

Assistant Secretary of the Interior. JUNE 13, 1960.

[F.R. Doc. 60-5626; Filed, June 17, 1960; 8:49 a.m.]

# Proposed Rule Making

## DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service [7 CFR Parts 904, 990, 996, 999, 10191

[Docket Nos. AO-14-A30; AO-302-A2; AO-203-A12; AO-204-A11; AO-305-A1]

MILK IN GREATER BOSTON, MASS.; SOUTHEASTERN NEW ENGLAND; SPRINGFIELD, MASS., WORCESTER, MASS.; AND CONNECTICUT MAR-KETING AREAS

Notice of Recommended Decision and Opportunity To File Written Exceptions to Proposed Amendments to Tentative Marketing Agreements and to Orders

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), notice is hereby given of the filing with the Hearing Clerk of this recommended decision of the Deputy Administrator, Agricultural Marketing Service, United States Department of Agriculture, with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the Greater Boston, Massachusetts; Southeastern New England; Springfield, Massachusetts; Worcester, Massachusetts; and Connecticut marketing areas. Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C., not later than the close of business the 15th day after publication of this decision in the FEDERAL REGISTER. The exceptions should be filed in quadruplicate.

Preliminary statement. The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders, were formulated, was conducted at Boston, Massachusetts, Providence, Rhode Island, Hartford, Connecticut, and Worcester, Massachusetts, on September 9 to October 8, 1959, pursuant to notice thereof which was issued August 19, 1959 (24 F.R. 6847).

The material issues on the record of the hearing relate to:

- 1. Extension of the Boston, Southeastern New England and Worcester marketing areas.
- 2. Modification of the pooling provisions under the five orders.
- 3. Revisions in the definitions and treatment of producer-handlers.
- 4. Modification of the exempt milk
- 5. Revisions in the accounting, classification and assignment provisions.

- 6. Class I price under the Southeastern New England and Connecticut orders.
  - 7. The level of Class II price.
- 8. Pricing of diverted milk under the Connecticut order.
- 9. Review of the need and basis for compensatory payments.
- 10. Modification of the "take-out payback" seasonal pricing plan under the Connecticut order.
  - 11. Nearby farm location differentials.
  - 12. Payment dates.
- 13. Marketing service program under the Boston order.
  - 14. Administrative assessment.
- 15. Other miscellaneous issues.

Findings and Conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Extension of the Boston, Southeastern New England and Worcester marketing areas. The Greater Boston marketing area should be extended to include the cities and towns of Ashland, Ayer, Burlington, Holliston, Hopkinton, Littleton, Marlborough, North Reading, Sherborn and Wilmington in Middlesex County, the town of Lynnfield in Essex County, the towns of Hingham and Hull in Plymouth County, the towns of Avon, Canton, Cohasset, Dover, Holbrook, Medfield, Norwood, Randolph, Sharon, Stoughton, Walpole and Westwood in Norfolk County and the town of Southborough in Worcester County.

Until July 1, 1959, the towns of Burlington, Lynnfield, North Reading and Wilmington constituted a narrow corridor separating the Boston and Merrimack Valley marketing areas. The area was served almost exclusively by Boston and/or Merrimack Valley regulated handlers. With the consolidation of the Boston and Merrimack Valley orders the four towns now constitute an unregulated corridor within the Boston marketing area.

Within the past year a Boston handler has established gallon jug stores supplied exclusively with unregulated milk in the towns of Burlington and North Reading. This milk is procured, for the most part, from unregulated sources in northern New England at prices closely reflecting the Boston blend price, and is processed in the handler's unregulated Woonsocket, Rhode Island, plant. It is estimated that such milk is obtained at a price advantage of approximately \$1.00 to \$1.20 per hundredweight below the

Class I price regulated handlers are required to pay under the order.

The four-town area in 1950 had a population of approximately 19,000 and there has been a continued population growth since that time. Regulated handlers have lost about 10 percent of the sales in this area since the gallon stores have opened. In addition the stores draw considerable patronage from the surrounding regulated towns. Proponents testified that a random check made just prior to the hearing indicated that about 50 percent of the cars stopping at those gallon jug stores were registered in cities and towns presently included in the marketing area.

The four-town area in question, because of location, constitutes a natural extension of the marketing area. Regulated handlers, who are the principal suppliers, are at a disadvantage in competing for sales, and they have lost and are continuing to lose sales to unregulated milk. It is proper, therefore, that these towns be consolidated into the marketing area.

The towns of Ayer and Littleton, having a civilian population of 8,000 in 1950, include the military establishment of Fort Devens. The civilian population is presently served by seven Boston or Worcester regulated handlers and five unregulated dealers. Regulated handlers make about 60 percent of the civilian sales. At least one of the unregulated dealers will become fully regulated by virtue of extension of the Worcester marketing area hereinafter proposed. The civilian population obviously will depend primarily on regulated milk and these towns should be added to the Boston area on this basis.

The primary intent in requesting regulation of milk marketing in these two towns, however, was to bring within regulation milk supplied to the military installation. Fort Devens is served on the basis of contract bids and the total sales on the basis of current staffing approximate six million pounds annually. The installation was once served primarily by regulated handlers using regulated milk, but in recent years it has been served almost exclusively with unregulated milk. This unregulated milk in reality is usually a part of the New England regulated milk supply. But when a handler obtains the contract at the installation he removes the milk from regulation and when the contract is terminated the milk is returned to regulation. This has had an unstabilizing effect upon marketing channels and upon producer returns.

The towns of Hingham, Hull and Cohasset form a small unregulated pocket at the southeast corner of the Boston marketing area and the northeast corner of the Southeastern New England marketing area. According to the 1950 census the combined population of the three-town area was 17,731, exclusive of summer residents who move in from the nearby metropolitan area during the vacation months and increase Class I sales significantly. The area is preponderantly served by Boston handlers, though to some extent it is also served by Southeastern handlers. While there has been no significant competition from unregulated milk, nevertheless, by location and by virtue of its extensive coverage by Boston handlers' routes, it is an integral part of the Boston marketing

The towns of Hingham and Hull were initially excluded from the Southeastern New England marketing area because of their integral relationship to the Boston market. The town of Cohasset, not initially proposed for regulation under the Southeastern New England order, is also integrally related to the Boston market, The inclusion of these towns will not significantly affect the status of any person presently doing business there. Potentially, however, the area presents an opportunity for unregulated handlers to establish retail stores and create a situation similar to that which occurred in the towns of Burlington and North Reading, as previously discussed. It is appropriate, therefore, that Hingham and Hull be included in the marketing area at this time.

The cities and towns of Ashland, Holliston, Hopkinton, Marlborough, Sherborn and Southborough are contiguous to the western boundary of the existing marketing area and are preponderantly served by presently regulated handlers. Ten of the 19 handlers doing business there are Boston handlers and two are Worcester handlers. Approximately 70 percent of the business in these six towns is done by regulated handlers.

Approximately 50 percent of the total population of this six-town area resides within the city of Marlborough. While the remaining five towns are significantly less densely populated, nevertheless their location relative to Marlborough and the presently regulated area under the Boston and Worcester orders affords opportunity for exploiting unregulated milk and regulated handlers in recent years have met with increasing competition from such milk. Continuing technological improvements in the processing and distribution of milk have made the specialized milk store a practical and efficient method of retailing milk. A single, unregulated plant can supply a chain of stores widely scattered over southern New England, and in this way it has become practical for unregulated handlers to serve scattered concentrations of population. Several supply plants have been withdrawn from regulation to supply unregulated milk for such operations here and in other areas herein proposed for regulation. To preserve the integrity of regulation, it is necessary, therefore, to extend the marketing area to cover this territory in which regulated handlers are the primary distributors.

The situation in that part of Norfolk County which is not now regulated or hereinbefore recommended for regulation (Cohasset) is substantially similar to that in the six-town area previously discussed. The situation has been further accentuated by the fact that certain regulated handlers, in an effort to meet unregulated competition, have adjusted their operations, by use of the exempt milk provisions of the orders, to enable them to serve unregulated areas with unregulated milk. Changes in the exempt milk provisions hereinafter proposed would tend to deter these exempt milk operations. As previously pointed out, however, it is now desirable to extend the area of regulation to cover that ter-

ritory in which regulated handlers are the primary handlers. The problem concerning the presently unregulated parts of Norfolk County is one of determining what segment should most appropriately be added to Boston and what segment should be added to Southeastern New England.

The Norfolk County towns hereinbefore set forth are served primarily by handlers regulated under the Boston or Southeastern New England orders and by one other substantial distributor who would be brought under full regulation by the revision in the exempt milk provisions hereinafter proposed. While it cannot be concluded definitely for each of these towns that Boston handlers, rather than Southeastern New England handlers, do the preponderance of the business, the area, by location, represents an appropriate extension of the Boston marketing area. The provisions of the two orders, as herein proposed to be amended, are so integrated that there should be no serious consequence if it develops that one or more of these towns is in fact served primarily by Southeastern rather than Boston handlers.

The towns of Pepperell and Dunstable in Middlesex County were also proposed for addition to the Boston marketing area. These towns are substantially rural in character. They had a combined population in 1950 of only 3200 and there is no evidence of significant population growth since that time. While the regulated handlers doing business here do meet substantial competition from unregulated handlers, it was not established that this competitive situation has resulted in market disorder of such a magnitude as to warrant regulation.

The Southeastern marketing area should be extended to include the towns of Bellingham, Foxborough, Franklin, Medway, Millis, Norfolk, Plainville and Wrentham in Norfolk County and the towns of Blackstone, Hopedale, Mendon, Milford and Millville in Worcester County. These towns are served primarily by handlers presently regulated under the Southeastern New England order and by handlers who would be brought under that regulation by the charges in the exempt milk provision hereinafter discussed. The situation relative to the use of unregulated milk is identical to that in the adjacent areas hereinbefore proposed for addition to the Boston area, and extension of regulation is necessary for the same reason. The question in the case of the Norfolk County towns and the town of Milford in Worcester County is whether regulation under Boston or Southeastern New England would be more appropriate. It is concluded that these towns are more closely associated with the Southeastern New England market and, therefore, should be included in that marketing area.

Regulation should not be extended to include the towns of Northbridge, Uxbridge, or Douglas. The town of Northbridge was at one time regulated under the Worcester order, but it was removed following an amendment hearing in which it was established that the pre-

ponderance of business in the town was done by a large number of producer-handlers located either in Northbridge or in Uxbridge. This situation continues to exist. Regulated handlers do little business in these two towns. Regulation was opposed by those producer-handlers who historically have held virtually an exclusive market.

The town of Douglas is largely taken up by a State park. It was proposed for regulation under the Southeastern order, but in fact there are no Southeastern handlers operating in the town.

The Worcester marketing area should be extended to add the cities of Fitchburg, Gardner, and Leominster and the towns of Charlton, Dudley, Lancaster, Lunenburg, Northborough, Oxford, Princeton, Southbridge, Sterling, Sutton, Upton, Webster, Westborough, and Westminster—all in Worcester County.

The cities of Fitchburg, Gardner, and Leominster, commonly referred to as the Tri-city area, are situated to the north of the present Worcester marketing area. In 1950 they had a combined population of more than 87,000, which was nearly 45 percent as large as that of the city of Worcester, which is the hub of the present marketing area. While about one-fourth of the business in these three towns is done by presently regulated dealers, 35 to 40 percent of the business is done by dealers who are using unregulated milk purchased from sources outside the State of Massachusetts but within the procurement area of the New England federally regulated markets. In recent years more and more handlers have been dropping local producers to use unregulated milk. There now is only one large dealer who still buys from local producers.

Unless the area is placed under regulation many of the remaining nearby Massachusetts producers will lose their local market and be forced to look to the adjacent Federal order markets as outlets for their milk.

As previously indicated, the cost advantage of using unregulated milk over federally regulated milk is approximately a dollar per hundredweight, and since the price established under the State order for this area is slightly in excess of the Federal order price the cost advantage of unregulated milk over State controlled milk is even greater. The cost advantage of unregulated therefore is a substantial inducement for handlers to increase their purchases of such milk and to develop unregulated Class I sales operations in the area. Regulated handlers using regulated milk obviously cannot compete effectively with such operations.

While regulation of Gardner, Fitchburg, and Leominster will greatly relieve the disorderly marketing situation in northern Worcester County, an even greater degree of market stability will be achieved by regulating also the immediately adjacent towns of Westminster, Lunenburg, Princeton, Sterling, and Lancaster. These towns are preponderantly served by presently regulated handlers and by handlers who will be brought under regulation by inclusion of the Tri-city area. For the most part,

they also are ideally situated for the extension of unregulated milk operations which would tend to draw sales from the present marketing area and/or the Tricity area. The towns of Princeton and Sterling are served almost exclusively by presently regulated handlers.

The towns of Ashburnham, Ashby, Templeton, Hubbardston, and Townsend should not be added to the Worcester marketing area. They are substantially rural in character and they are less favorably situated for gallon jug store operations than the towns herein proposed for regulation. These towns are served largely by dealers who do the preponderance of their business in other unregulated areas.

The towns of Northborough, Westborough and Upton form a narrow corridor between the present Worcester marketing area and the marketing area of Boston and Southeastern New England as hereinbefore proposed to be extended. Handlers regulated under these orders now have approximately 80 percent of the Class I sales here, and extension of the Worcester regulation will prevent repetition of the previously discussed store situation which has developed in other unregulated corridors.

The towns of Charlton, Oxford, Sutton, Southbridge, Dudley, and Webster are located adjacent to and between the present Connecticut and Worcester marketing areas. Worcester handlers have the preponderance of business in the towns of Charlton, Oxford, and Sutton and also have substantial sales in the remaining three towns. A substantial Connecticut handler operates a bottling plant in the town of Dudley and has general distribution in that town and in the adjacent towns of Webster and Southbridge. In addition, other Connecticut handlers also have distribution here. It is concluded that Worcester and Connecticut regulated handlers do the preponderance of business in these three towns, and that orderly marketing will be enhanced by their inclusion in the Worcester marketing area.

Extension of regulation to include the six-town area was proposed by several Worcester handlers who testified that they operated at a serious competitive disadvantage in competition with unregulated operations in the area. They further pointed out that the present disorderly marketing conditions created by the presence of unregulated milk could be increased by the establishment of store outlets in the area. The six-town area has a population in excess of 50,000 and is served by an excellent transportation network. It thus represents an excellent opportunity for unregulated milk operations similar to those which have sprung up in other unregulated corridors. It is appropriate, therefore, that this six-town area be added to the Worcester marketing area.

The towns of Sturbridge and Northbridge should not be included in such marketing area. The Northbridge situation was previously discussed under the extension of the Southeastern New England marketing area and its inclusion in the Worcester area at this time is inappropriate for the reason stated when its inclusion in the Southeastern area was denied. The town of Sturbridge presently is served by only one regulated handler in competition with five small unregulated dealers. There is no indication of market disorder which would require its regulation at this time.

The towns of Barre, Brookfield, East Brookfield, Hardwick, New Braintree, North Brookfield, Oakham, Ware, and West Brookfield are served extensively by presently regulated handlers. There is no indication that unregulated milk in any way has been a disruptive factor in these nine towns. Regulation was requested to eliminate the possibility of gallon jug stores being established on the perimeter of the marketing area from which unregulated milk sales would provide disadvantageous competition for regulated milk. The towns in question are primarily rural in character and there is no indication, other than in the town of Ware, that regulated Worcester handlers have had any competitive problems. The competition complained of in the town of Ware was from a fully regulated handler under the Springfield order, and it is not apparent how regulation of this town would in any way alter this competitive situation.

2. Pool plant provisions. The provisions of the several New England orders should be revised to provide generally for regulation of a plant under the order for that market in which it disposes of the greater proportion of its Class I milk on routes or, in the case of supply plants, that market to which the greater proportion of its shipments are made.

Virtually all the milk in the New England area is qualified for disposition as fluid milk in one or all of the Federal order markets in New England. While there are technical differences in the several health ordinances in effect and in their application, nevertheless, the markets draw milk from a generally common supply area. Producers and/or plant operators have a broad choice of markets and milk can be expected to associate with that market which, in the judgment of the individuals or companies concerned, offers the most attractive financial remuneration.

Prior to the advent of regulation in Southeastern New England and Connecticut, the Boston pool carried most of the reserve supplies for the entire New England area. In order to hold the Class I sales for which the pool carried the reserve supply, it was desirable to maintain low pooling requirements and to pool any plant meeting such requirements, even though such plant by performance might be more closely associated with one of the regulated secondary markets (Merrimack Valley, Springfield and Worcester).

The advent of regulation in the Southeastern New England and Connecticut markets has changed substantially the supply situation in the New England area. Most of the manufacturing plants which process milk in excess of Class I needs are now, and will undoubtedly continue to be, associated with the Boston pool. Nevertheless, it is expected that the two new orders will carry their own market reserves. In the interest of or-

derly marketing, the provisions of the respective orders must be drafted to facilitate the movement of milk as between markets and to promote alignment of blended prices as between markets. This can best be accomplished by providing more uniform basic plant definitions and pooling requirements. It is concluded. therefore, that the plant and receiving plant definitions under the Southeastern New England order should be revised to conform with such definitions under the three older New England orders, and that the plant definition under each of these four orders should be further modified in conformity with the provisions of the Connecticut order to make clear that the definition does not include separate facilities used to hold or store packaged fluid milk products or other milk products in finished form in transit on routes.

The present plant and receiving plant definitions under the Southeastern New England order are identical to those of the Boston order in effect prior to April 1, 1959. These provisions were modified effective April 1, 1959 to conform more closely to the conditions of bulk tank handling and to permit the pricing of milk at country transfer points, which are substantial facilities operated by bona fide handlers with financial responsibility. The present definitions of the three oldest orders are equally appropriate for the Southeastern New England order, for the identical reasons stated in the Assistant Secretary's decision of March 24, 1959 (24 F.R. 2441) in proposing their adoption in the Boston and secondary markets.

The plant and receiving plant definitions under the Connecticut order do not need to be modified with respect to the maintenance of holding facilities. No evidence was submitted to show that, in terms of the situation in this market, these definitions have not operated satisfactorily.

The three oldest New England orders presently use Class I disposition (both to plants and on routes) in the market area as one criterion for pooling distributing plants. The Connecticut and Southeastern New England orders use "route" disposition. It is concluded that route disposition in the marketing area should be used as a uniform standard for distributing plants under each of the several orders. It is appropriate that route sales include all disposition of fluid milk products classified as Class I, other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition. Bulk movements as between plants should be treated as plant transfers as should package movements to plants which are also packaging plants. Class I disposition from any such transferee plant properly should be considered as route disposition of such plant. Packaged sales to nonpackaging plants are no different than sales to other peddlers or vendors and sales from such plants, as in the case of sales by vendors, should be counted as route sales of the packaging plant.

In conjunction with this conclusion, it is proposed that the handler definition be extended to include peddlers, bob-

tailers and similar persons. As nonpool handlers, such persons will be required to file reports with the market administrator relative to their receipts and disposition of milk in order that he may ascertain where the milk is disposed of.

The plant definition, as hereinbefore provided, excludes buildings and facilities used primarily to store packaged fluid milk products in transit on routes. This is intended to make clear that routes emanating from distribution depots are to be considered as routes of the originating plant, whether such depots are operated by the same handler, or by bobtailers, vendors, peddlers or similar distributors. This treatment is presently prescribed under the existing Connecticut order language.

Under the present provisions of the Southeastern New England order, a receiving plant with route distribution must dispose of 10 percent of its producer receipts as Class I milk in the marketing area on routes, and at least 50 percent of such receipts as Class I, to qualify for pooling. Under the Connecticut order, such a plant must dispose of 10 percent of its producer receipts as Class I milk in the marketing area on routes and 50 percent of its total receipts as Class I to qualify for pooling. Under the three older orders such a plant must dispose of 10 percent of its overall receipts as Class I milk in the marketing area to qualify for pooling. A plant located in excess of a prescribed distance from the market is termed a country plant and must meet different requirements. These three latter orders also prevent pooling of a distributing plant during certain months of the year which did not operate as a pool plant during other prescribed months of the year. A distributing plant meeting the requirements of the Boston order and of any other order presently is regulated under the Boston order, even though it might do the greater proportion of its business in another market.

With virtually all the concentrated area of sales under regulation, it is appropriate and desirable that distributing plants be regulated in that market in which they do the greater proportion of their Class I business. This result can best be accomplished by providing identical pooling standards under each of the respective orders. The language of the Connecticut order is most appropriate for this purpose. Since all distributing plants presently pooled under the several orders are primarily Class I operations, it is not expected that any plant presently pooled will be denied pooling status because of these modifications. Nevertheless, should the adoption of this language result in nonpool status for any plant presently pooled, such result is concluded appropriate. A distributing plant which utilizes less than 50 percent of its fluid milk receipts in Class I obviously cannot be considered as primarily associated with a fluid market, and the pooling of such a plant would adversely affect returns to producers for the fluid market. A plant which has less than 10 percent of its producer receipts disposed of in any marketing area should not be considered

as substantially associated with such local market. Full regulation of plants with only a minor part of their distribution in the local market is not necessary and might well have the result of placing such plants at a competitive disadvantage in supplying the market with which they are primarily associated.

With the requirement that a distributing plant must have at least a 50 percent Class I utilization to qualify for pooling, it is no longer necessary to retain the flush season exclusion for distributing plants, since a plant entering the market for the first time during the flush months should not have a detrimental effect on the pool. Hence, there need be no concern of pool riding.

It is recognized that because of the close geographical relationship of the several marketing areas some plants, as a result of losses or gains in sales as between markets, might occasionally shift from one pool to another. This situation most likely could occur in the case of some of the smaller handlers operating in areas where two or more of the marketing areas adjoin. While such a situation might be disconcerting to the plant operator, it would have no significant effect on him, his producers, or any supply plants shipping to such plant, since class prices are identical as between markets and blended prices will be closely aligned. The pooling requirements for distributing plants as herein proposed are identical under each of the orders, and provision is made whereby supply plants which meet the pooling requirements under any of the New England orders in each of the months of July through November have automatic pooling status under any such order during the flush production months.

It is desirable that the principle of regulating a distributing plant in that market in which it has the greater proportion of its route sales be preserved. Any modification of this principle would tend to enhance or deflate the Class I sales in one pool to the disadvantage or advantage of the other. It is unlikely that there will be any significant occurrence of plant shifts as a result of this conclusion. Nevertheless, should any plant exist which has approximately equal route sales in two markets, and such plant is shifted between pools on the basis of minor losses or gains in route sales in one market as compared to another, such result must be concluded to

be appropriate.

The present "city" and "country" plant definitions in the three older orders, in conjunction with the pooling provisions, establish different pooling requirements for distributing plants solely on the basis of location. The continued application of this principle would tend to deter the intent to pool distributing plants in the market in which they do the greater proportion of their Class I business. Plants performing similar functions should be accorded similar treatment and distance should reflect only difference in prices as between plants. It is concluded, therefore, that distance from market should not be a factor in pooling requirement.

The pooling requirements for supply plants under each of the respective

orders should be modified to provide, (1) more uniform shipping requirements, (2) greater flexibility for plants to move from one pool to another, and (3) assurance of pooling status under some order during the flush for any plant which was pooled under any of these orders in each of the short production months.

Under the existing provisions of the Boston order a supply plant must meet specified performance requirements in each month in the case of city plants, while country plants must ship 10 percent of their producer receipts in the month of August and make at least token shipments every other month thereafter. Any plant meeting the pooling requirements in any month is pooled in such month unless the operator thereof requests nonpool status. A plant operated as a nonpool plant in any month of July through March cannot hold pooling status in the months of April through June if operated by the same handler or an affiliate.

With respect to supply plants the Worcester and Springfield orders provide 50 and 30 percent shipping requirements, respectively, and a plant pooled in each of the months of October through February has automatic pooling status in the months of March through September. As in the case of the Boston order, any plant operated as a nonpool plant during any of the short production months cannot be pooled during the flush if operated by the same handler or an affiliate.

In the case of the Connecticut order a supply plant must qualify for pooling in each of the months of July through November to hold automatic pooling status in the following months of December through June, but any plant is qualified for pooling in any month in which it meets the 30 percent shipping requirement. The Southeastern New England order also provides a 30 percent shipping requirement for supply plants in the months of July through November but, similar to the three older orders. denies pooling status during the flush to a plant which held nonpool status in any of the short months and is operated by the same handler or an affiliate. The Connecticut and Southeastern New England orders exempt from pooling any plant which met the pooling require-ments but was a pool plant under another Federal order. Such nonpool status in any month for any qualified supply plant does not deter automatic pooling during the flush months. Similarly, the Springfield and Worcester orders defer to each other and to the Boston order but do not recognize the Southeastern New England or Connecticut orders.

The varied requirements for supply plants presently contained in the several orders deter the orderly movement of plants from one order to another in response to market needs and resulting price incentives. Handlers' efforts to assure reasonable alignments of blends through movements of plants and/or milk within the limits provided in the orders have not necessarily accommodated the situation, and have provoked

considerable dissatisfaction on the part of affected producers.

It is concluded that with respect to supply plants the months of July through November should be adopted under each of the orders as the qualifying months for automatic pooling during the subsequent months of December through June. The months of July through November, presently used in the Southeastern New England and Connecticut orders, also generally represent the months of shortest production and/or greatest need in the New England area as a whole. It is appropriate, therefore, that such months be adopted as the qualifying months for automatic pooling in the remaining months to provide continuity of pooling provisions as among the several orders.

Pooling qualification for supply plants should be contingent on meeting specified shipping requirements to pool distributing plants, or to other plants not regulated under another Federal order which utilize at least 50 percent of their total receipts of fluid milk products in Class I and dispose of not less than 10 percent of such receipts as Class I milk in the marketing area on routes. This requirement is generally applicable under the Southeastern New England and Connecticut orders, but no distinction is made as to whether the transferee plant is regulated under another Federal order. As a result, certain handlers with distribution in both the Boston and Southeastern New England markets have pooled their bottling and distributing plants under the Boston order and their supply plants have been moved back and forth between the two pools. It is concluded that market stability in the area will be enhanced if, with only specified exceptions hereinafter discussed, supply plants are required to pool under that order regulating the distributing plant(s) to which qualifying shipments are made.

It is proposed that the shipping requirement under the Worcester order be reduced from 50 to 30 percent to conform with the provisions of the Springfield, Connecticut and Southeastern New England markets. Worcester is a small market and the bulk of the receipts are direct receipts from nearby producers. It is not expected that the lower shipping requirement will result in any additional plants being pooled under this order. Nevertheless, should such result obtain, it cannot be considered inappro-While it is not intended that shipping requirements be so low as to attract milk primarily associated with manufacturing outlets, too high a shipping requirement may tend to deter an appropriate sharing of market supply, particularly if lower requirements are provided in surrounding Federal orders.

The Boston market is substantially different in structure than the other four markets, in that here the great majority of the milk moves to market through supply plants. Handlers have generally concentrated their manufacturing operations in particular plants, and have maintained other plants primarily as reserve supplies. The multiplicity of ownerships involved and plant associations which have been made under the

existing order provisions would be seriously disrupted, and pool supply plants of long standing might be denied pooling status, if the performance requirements were established at the same level provided in the other four markets. Nevertheless, some more stringent requirements are necessary and desirable to deter plants from associating with the Boston pool solely because of the ease of pooling. It is concluded, therefore, that a supply plant under the Boston order should be required to ship 15 per cent of its producer receipts in any month of July through November to hold pooling status in such month. However. provision should be made whereby, in the case of two or more supply plants operated by the same handler, such plants may be considered as a system and after the first month in which the 15 percent shipment from each individual plant therein is met, the performance of the system would then determine qualification of all of the plants therein.

Requirement that the individual plant meet the prescribed shipping percentage in the first month of pooling is necessary to demonstrate such plant's right to association with the pool and is consistent with the present pooling provisions. Since the multiple plant handler has considerable flexibility in his operations he could, if he continues to qualify his plants as a system, also qualify each plant therein individually. Provision for system pooling, however, will serve to minimize uneconomic and unnecessary transportation and/or receiving costs on the part of the handler to assure pooling status for each of his supply plants.

Notwithstanding the privilege of system pooling, it is intended that the actual shipping performance of each individual plant shall determine under which order such plant shall be regulated. Hence, any plant included in a system under the Boston order, which plant makes sufficient shipments to one of the other orders to qualify as a pool plant under such other order, would be regulated under that order in any month when such shipments exceeded its shipments to the Boston market.

Any plant which a handler might later wish to add to his system should be required to meet the 15 percent shipping requirement apart from the remainder of the system in the first month in which it is associated with the market. Such requirement is similar to that placed on other system plants in the pool and serves to establish a bona fide association with the market.

Most of the manufacturing plants in the New England area are now, and will continue to be, associated with the Boston pool. Milk in excess of fluid requirements in the other four markets. by and large, is disposed of through Boston pool plants. Under normal circumstances, for most economical handling such milk is moved to Boston bottling plants, and an equivalent amount of Boston pool milk is held upcountry for manufacture. A plant nor-mally pooled under one of the other four orders might well ship a greater quantity of milk to a Boston distributing plant and, under a rigid rule of regulation in

that market to which the greater shipments were made, would necessarily be regulated under the Boston order. This would force onto the Boston pool most of the surplus for the entire New England area. At the same time the utilization in the other markets would be held relatively high. Under such circumstances Boston handlers would likely be unwilling to handle such milk moving from other markets. It is appropriate therefore that the Boston pooling provisions be so drafted that a supply plant meeting the pooling requirements could, nevertheless, hold nonpool status during any of the months of July through November by notification to the market administrator that such plant is to be considered a nonpool plant if such nonpool status would result in full regulation under another of the New England orders and no milk received from such plant by a Boston pool plant were assigned to Class I under the provisions of the Boston order. This procedure will implement the orderly disposition of the reserve supply of the five-market area.

It is neither necessary nor appropriate to require plants which have had a bona fide association with a market during each of the short production months to make shipments during the flush season to retain pooling status. During the months of flush production, supplies of milk received at plants located in or near the marketing area may be sufficient to supply the market's fluid needs. In such case, it would be more economical to leave the more distant milk in the country for manufacturing and utilize the nearby milk for Class I use. It is provided therefore that each of the respective orders shall provide automatic pooling status during the flush production months for any supply plant which met the pooling requirements under such order in each of the short production months. Without specific direction from the operator thereof, any plant which met the applicable pooling requirements under two or more orders in each of the short production months would be pooled during the flush production months under that order under which the greatest proportion of its producer receipts was pooled during the short production months. However. such plant, would have, in fact, established a bona fide association with each of the markets for which it met the pooling requirements. It is deemed appropriate, therefore, that the operator thereof be permitted to choose pooling under any of the orders, for which the plant has qualified, on a month-to-month basis during the flush months by requesting nonpool status in his normal market.

A plant which continuously met the pooling requirements under the several orders in each of the short production months, but not continuously under any one order, should have automatic pooling status under some order during the flush months, since it would have demonstrated amply its association with the regulated markets of New England. Such automatic pooling status appropriately should be available under that order under which the greatest proportion of its producer receipts were pooled

during the preceding short production months. Should the operator of such plant not wish to pool his plant in this manner it is desirable that he be permitted to request nonpool status for such plant. In that event the plant would be eligible to pool under one of the other orders by meeting the applicable shipping requirements in such month. Such plant would not have qualified for automatic pooling on the basis of shipments to any single market, and should the operator thereof later elect to return to that market in which he was initially provided automatic pooling status, the plant should appropriately be pooled only if it meets the current shipping requirements.

In any situation where a plant acquires automatic pooling status in a market in which it did not meet the pooling requirements in each of the short production months, but nevertheless met the pooling requirements in another market in each of the preceding short months, the operator thereof should be permitted to elect pooling status in such latter market by proper notification to the respective market administrators. As in the previous situation, the plant should be permitted to return to the market in which it was initially provided automatic pooling only by meeting the current shipping requirements.

Any plant which qualifies for automatic pooling status under one or more of the several orders, but nevertheless elects not to be pooled under any order during any flush production month, should be considered to have forfeited automatic pooling status, and such plant should be permitted to pool in any subsequent month of such period only by meeting the current shipping requirements. It is unlikely that any plant would elect nonpool status in any flush month unless the milk received there was intended for use in an outside Class I market. It would be inappropriate to permit a plant to withdraw from the pool to supply an outside market and to return to automatic pooling status when such outlets were no longer available. It is appropriate, therefore, that any plant withheld from pooling under all of the orders during any flush month shall forfeit its automatic pooling status and be permitted to pool during any remaining months of such period only by meeting the current shipping require-

Except as hereinbefore provided, any supply plant which was a nonpool plant under all of the New England Federal orders during any of the months of July through November should not be permitted pool plant status in any of the immediately following months of December through June in which it is operated by the same handler, an affiliate of the handler or any person who controls or is controlled by the handler. It would be inappropriate to permit a plant to hold pooling status under any of these orders during the flush months of production if the milk regularly received there is withdrawn from regulation during the short production months (when such milk would be most needed by the local regulated markets) to supply outside Class I markets.

The pooling provisions of the three older orders condition pooling eligibility on plant licenses and individual producer permits issued pursuant to the Massachusetts General Laws. The pooling provisions herein recommended prescribe performance requirements which plants must meet. Any plant meeting such requirements has sufficiently demonstrated its association with the market and its right to participate in the equalization pool. Hence, it will not be necessary to rely upon health approvals under the recommended amendments.

Each of the orders other than Connecticut now make provision for the pooling of plants within specified locations which are operated by an association of producers. Such provision was adapted in recognition of the fact that only very limited manufacturing facilities were available near these markets, and that much of the burden of handling local milk in excess of fluid needs would likely fall upon the several cooperatives with membership among the nearby producers. Such cooperatives operate surplus handling facilities at plants within each of the respective marketing areas and except in the case of Connecticut, milk received at such plants otherwise would not be eligible for pooling since the plants involved have no route sales and could not under normal circumstances meet the shipping requirements for supply plants.

It is intended that any plant qualifying under this provision should be functioning solely as a balancing and surplus disposal plant. Nevertheless, the orders other than Boston are not specific in this regard, and in the case of Southeastern New England at least one plant qualified under this provision has received no milk from producers and has no processing facilities. It is concluded that, except for Connecticut, the respective orders should be modified to specifically provide pooling status for a receiving plant located in the marketing area and operated by a cooperative association if the quantity of Class I milk disposed of on routes from such plant does not exceed two percent of its total receipts of fluid milk products. The two-percent tolerance is necessary to protect a plant's pooling status in the event of minor route sales through error or accident. Without some tolerance. such accidental disposition would result in forfeiture of pooling status for the milk involved and if this situation occurred in any of the months of July through November, the plant would also be disqualified for pooling in the following months of December through June.

No change is proposed in the Connecticut order since the existing order provisions have accommodated the pooling of the cooperative's surplus manufacturing plant in that market.

One cooperative association with several supply plants presently pooled under the Connecticut order proposed that automatic pooling status be granted to their plant at Great Barrington, Massachusetts, on the grounds that such plant

was a balancing plant for the Connecticut market. The plant in question has no manufacturing facilities and virtually all of the milk received there from producers is shipped to plants in the marketing area. There is no basis for distinguishing this plant from any other supply plant associated with the market and it should therefore be pooled only so long as it meets the regular pooling requirements of the order.

3. Modification of producer-handler definition. The producer-handler defi-nition in the Boston, Springfield and Worcester orders should be modified more nearly to conform with the present definition in the Southeastern New England order. Small producer-handlers whose own-farm production or route sales of Class I milk (whichever is less) does not exceed an average of 1,000 quarts per day during the month should be permitted to purchase fluid milk products (packaged or bulk) from fully regulated plants under any of the New England Federal orders without restriction. A small tolerance should be provided whereby large producer-handlers can obtain minor quantities of specialty items or balancing supplies without affecting their status as producer-handlers.

The Boston order presently defines a producer-handler as a dairy farmer who operates a plant from which he disposes of Class I milk (from his own farms located within 80 miles of Boston) and who receives no milk from other dairy farmers, except other producer-handlers. The Springfield and Worcester definitions are essentially the same but with no mileage limitation on farm location,

Hence, under the three older orders a dairy farmer operating a processing plant, and who receives no milk from other dairy farmers, is exempted from pooling his own milk regardless of the extent to which he relies upon the pool for balancing supplies. This is a significant advantage to producer-handlers in that it allows them to realize a Class I return on virtually all of their own milk production. This advantage can be translated into unstabilized marketing conditions for all milk in the market. There has been considerable incentive for dairy farmers in close proximity to the market to develop producer-handler type operations.

Typically, a producer-handler conducts a small family-type operation, processing, bottling and distributing only his own farm production. Full regulation of such individuals provides considerable administrative difficulties. Normally, exemption from regulated status is made in a Federal order for such individuals on the grounds that such businesses are so small that they have little or no effect upon the pool. When such operations become substantial and rely upon the pool to carry their supplemental supplies and necessary surplus, the normal basis for exempting their own production from pricing and pooling no longer exists. It is provided therfore that the three older orders be amended to provide (except in the case of an individual whose receipts of milk of his own production, or his Class I milk

disposed of on his own routes, whichever is less, do not exceed 2,150 pounds on a daily average basis during the month) that producer-handler status may be maintained only so long as the individual involved relies only on own farm production as a source of supply. To provide some accommodation for the purchase of speciality items and for protection against unanticipated shortages. a small tolerance should be provided, whereby such a handler can in any month purchase milk, either packaged or bulk, from fully regulated plants under any of the New England Federal orders in an amount not to exceed two percent of the milk handled by him, without affecting his status. A two percent tolerance is presently provided to certain distributing plants to prevent inclusion or exclusion from the pool because of accidental or inadvertent sales in the market. A similar percentage tolerance is appropriate in the purchase of milk by producer-handlers.

Under existing circumstances it is unlikely that a small operator with no more than 2,150 pounds of own farm production or route sales on a daily basis could be a disruptive factor in these markets. Accordingly, it is proposed that such an individual be permitted to make unlimited purchases, either in packaged form or in bulk, from fully regulated plants under any of the New England Federal orders, without affecting his status as a producer-handler. This provision will serve to accommodate the small producer-handler and at the same time facilitate administration of the order.

In order to maintain producer-handler status, it is provided that the maintenance, care and management of the dairy animals and other resources necessary to produce the milk, and the processing. packaging and distribution of the milk shall be the personal enterprise of and the personal risk of the person involved. These standards are intended to distinguish the family-type operation normally involved, and to bring under full regulation operations which attempt to masquerade as producer-handlers in their normal concept through leases, rental arrangements, and other devices designed to circumvent regulation by the order.

Large operations which receive milk from their own farm production, but no milk directly from dairy farmers, and which rely on other plants for substantial supplemental supplies either in bulk or packaged form, are not significantly different from the operations of regular handlers. In addition, such individuals do not assume the risk or cost of providing a full supply. If they are accorded producer-handler status, the pool does not receive the benefits of their Class I sales but acts as a supply balance and carries their necessary surplus. Such operators should not be considered as producer-handlers, but should be accorded status similar to that of any other handler receiving milk directly from farms. If they sell a sufficient proportion of their milk in the marketing area, they would attain pool status and participate in the equalization pool.

The receipt of milk by a handler from a person who is a producer-handler under any of the New England Federal orders should be regarded as a receipt of unregulated milk, since such milk will not be priced or pooled at the producer-handler's plant. Under the proposed amended definition of a producer-handler in the three oldest orders, it no longer would be possible for a person to retain such status if he received unregulated milk from another producer-handler.

The producer-handler definition under the Southeastern New England order appears to have accommodated the situation in that market. Nevertheless, because of the close interrelationship of the Southeastern New England, Boston and Worcester markets it is desirable that identical definition and treatment of producer-handlers be provided under each of these orders. In line with the conclusions previously reached in regard to producer-handlers under the three older orders it is appropriate that the size limitation on small producerhandlers be increased from 500 quarts to 1,000 quarts and such individual should be permitted to receive unlimited quantities of supplemental milk from fully regulated plants under any of the New England orders in either packaged or bulk form, rather than only in packaged form from Southeastern New England pool plants as presently provided. It is also appropriate that large producer-handlers be permitted a total two percent tolerance for purchasing milk from fully regulated plants under any of the New England orders in the same manner proposed for the three older orders. These changes will tend to permit producer-handlers under the Southeastern New England order greater flexibility of operation without significant effect to the pool, and will facilitate the operations of producerhandlers doing business in both the Southeastern New England and Boston (or Worcester) markets. Unless similar treatment is provided it is possible that a person doing business in any of the oldest markets and in the Southeastern New England market might meet the producer-handler definition in such older market but nevertheless be required to pool under the Southeastern

No change should be made in the definition or treatment of producer-handlers under the Connecticut order. This matter was carefully considered by the Assistant Secretary in his decision of February 9, 1959 (24 F.R. 1049) and, except for the fact that the gallon jug has since been legalized in Connecticut, there were no additional facts offered which were not previously considered. While it is possible that the institution of the gallon jug may have a substantial impact in the Connecticut market, particularly as it relates to producer-handler type operations, it cannot be concluded on the basis of this record that producerhandlers there should be more strictly regulated at this time.

Producer-handlers in Connecticut proposed that the order provision be liberalized to permit them to buy supple-

mental milk from each other as well as from pool sources. Such individuals already enjoy a preferential market in that they are not required to equalize their Class I sales through the pool. A producer-handler buying milk from another producer-handler is, in fact, buying from another dairy farmer. This is no different than any other handler buying milk from dairy farmers and hence no different treatment should be provided.

4. Modification of the exempt milk provisions. The exempt milk provisions of the Boston, Connecticut, Southeastern New England, Springfield and Worcester orders should be modified to restrict their application to the handling of milk during temporary periods when the plant in which the milk is normally processed and packaged cannot be used because of . extraordinary circumstances beyond the plant operator's control. In addition. the exempt milk provision of each of the New England orders should be extended to include certified milk. However, no change should be made in this provision under the Connecticut order as it relates to the handling of milk between State institutions.

The exempt milk provisions, originally designed to accommodate customs of the local New England markets, have been subject to increasing abuse since early 1956. The three oldest orders were amended on May 1, 1957, to restrict to prescribed emergency situations the privilege of a regulated plant to package milk for an unregulated plant as exempt milk. This action was taken after certain handlers had used the exempt milk provision as a mechanism for influencing blended price relationships between regulated markets and for using unregulated milk for out-of-area Class I sales which otherwise would have accrued to the pool.

The three oldest orders now recognize three categories of milk movements under the exempt milk provisions. The first grants exemption to milk received at a regulated plant from a dairy farmer which is packaged and returned to the dairy farmer. The second permits milk to be received at a regulated plant from an unregulated plant for packaging and returned to the unregulated plant during periods when the unregulated plant cannot operate because of extraordinary circumstances beyond the handler's control. The third exemption covers milk received at a regulated plant from an unregulated plant as packaged fluid milk products in return for an equivalent quantity of bulk milk.

The Southeastern New England order recognizes only the latter two categories, as does the Connecticut order. However, the Connecticut order also exempts certain movements between State institutions.

While it is probable that certain regulated handlers have used the exempt milk provisions to meet unregulated competition in the surrounding unregulated areas, milk distributed by regulated handlers as exempt milk has been an important factor contributing to the unstable marketing conditions in the areas hereinbefore proposed to be brought under

regulation. While the privilege was originally granted to give regulated handlers greater flexibility in procuring special packaging, it has generally been used for an entirely different purpose and has resulted in substantial losses of Class I sales to the regulated markets.

It is recognized that damage caused by storm, fire, flood, and the like may render a plant temporarily unusable and a dealer may have to devise an emergency program for handling milk during such situation. While the orders should not deter the handling of milk under such circumstances, they also should not promote practices which lead to loss of Class I sales by the pool. It is concluded, therefore, that the application of the exempt milk provision as it applies to the processing of milk for regulated plants at unregulated plants should be placed on the same basis now applicable to the processing of milk for unregulated plants at regulated plants i.e., only when a plant is rendered nonoperative under extraordinary circumstances entirely beyond the handler's control. However, the provision should not be applicable in case of ordinary plant breakdown or work stoppages involving situations which are clearly the usual risk of any handler. These are readily distinguishable from extraordinary circumstances which are completely beyond the handler's control.

The exempt milk provisions of the three oldest orders, as they apply to the processing and packaging of milk and return thereof to the dairy farmer who produced it, have also tended to weaken the effectiveness of the Federal order program and should be eliminated. Many dairy farmers distributing their own milk have had complete freedom in utilizing the facilities of regulated plants for custom processing and packaging of their own milk which is then distributed both inside and outside the regulated areas in direct competition with regulated milk. Such transactions in earlier years were inconsequential, but in recent years they have clearly illustrated the inequality of this provision. In the past few years, for example, one dairy farmer has developed a chain of 15 dairy stores which are supplied largely by his own milk under the exempt milk provisions. He enjoys a preferential Class I market without carrying the burden of surplus associated therewith. When he needs supplemental milk he purchases it from the processing handler and his excess milk is delivered as pool milk. He thus enjoys a significant cost advantage over other regulated handlers without substantial investment in processing facilities of any kind. In May 1959 there were 62 dairy farmers, of varying size, utilizing the exempt milk provisions in this manner.

A dairy farmer-distributor should not be permitted to maintain a preferential Class I market outside the scope of regulation. The production resources which he maintains are the same as those of any other producer, and he has no additional investment in processing facilities which entitles him to a preferential return over other producers. His milk is received at pool plants in the same man-

ner as that from other producers, and it should be priced and pooled in the same manner and under the same rules as other producer milk is priced and pooled.

The exempt milk provisions of each of the orders should be extended to include milk which is received, processed and disposed of as certified milk.

A proposal for such exemption was made by a handler now operating as a producer-handler who distributes both certified and regular milk. The milk which he disposes of as certified milk is produced on his own farm and processed in his own plant in accordance with requirements promulgated by the American Association of Medical Commissions. His production in excess of his certified milk requirements is supplemented by purchases from other handlers, and this milk is also processed through his plant after his certified milk is processed and is distributed on his own routes along with his certified milk.

Insofar as can be ascertained from the record, there are only two producers of certified milk in the federally regulated markets of New England, both being in the Boston market. The largest producer of such milk, a multiple plant handler, has been required to pool his certified milk operation since the inception of the Boston order. Notwithstanding this fact, certified milk is a very specialized product, the production requirements for which are far more rigid than for other fluid milk. Certified milk sells for a price substantially higher than that for other milk and it is sold under conditions not generally competitive with other milk. The circumstances under which certified milk is produced and marketed are such that an expansion in its production sufficient to be a disturbing factor in the market appears extremely remote. To the contrary, it has over the years become increasingly of lesser importance volumewise.

Since certified milk is clearly not a competitive product and because of its minor importance and high cost of production it is appropriate that milk produced and disposed of as packaged certified milk or packaged certified skim milk be exempted from pricing and pooling. If certified milk is to be considered as exempt milk under the Boston pool, it is equally appropriate that it have freedom of transfer between plants in the Boston market as well as to plants in other New England markets. The assignment provision of the several orders as presently constituted, and as hereinafter proposed to be modified, accommodate such movements. However. if Boston handlers are free to move certified milk into the other markets, it is also equally appropriate that handlers in outside markets, federally regulated or unregulated, be provided the same freedom. It is necessary, to implement this conclusion, that the assignment provision of the several orders be modified to permit receipts of packaged certified milk and skim milk to be deducted from Class I prior to the assignment of producer receipts.

Exemption from pooling and filing reports under the Southeastern New England order was requested for charitable

and educational institutions which have own farm production and processing facilities. The proponent of this proposal offered no appropriate standards by which it could be determined what institutes or establishments might properly qualify as "charitable" or "educational", and had no specific knowledge of the number or type of institutions which might be involved. While certain exemptions are provided in the Connecticut order they are specifically applicable only to State owned and operated institutions or establishments. These exemptions would not appropriately cover the institution to which proponent's request was directed.

Since the specific institution in question is now operating in the status of a producer-handler and there was no indication of contemplated change in status, there is no apparent need for further exemption from pooling. Exemption from reporting could not appropriately be granted under any circumstances. The order now provides that each nonpool handler shall make reports at such time and in such manner as the market administrator may prescribe. The market administrator thus has discretion as to the type and extent of reports which proponent and handlers in similar status must make, but under any circumstances must require reports at such time and in such detail as is necessary to satisfy himself of the continuing status of the nonpool handler.

It was also proposed that the Southeastern New England order be amended to provide that any dairy farmer, pool handler, producer-handler, or producer with own farm production who used part of such milk, either raw or processed for his family, employees or livestock be exempted from reporting such milk up to a specified limit. A producer-handler is exempted from pricing and pooling under the present provision of the order and makes only such reports as the market administrator may require to determine his continuing status. In the case of a producer, only that milk which is actually delivered to a pool handler is regulated. Hence, the requested exemption would have no substantive value in the case of either producer-handlers or producers; it would have significance only to pool handlers.

The integrity of the Federal regulation is dependent on the requirement that each handler shall be required to make a full accounting of his receipts and utilization in the class in which the milk is utilized and at the specified prices. Milk disposed of for livestock feed is presently classified and priced in the lowest use classification. Milk which is used by the family or given or sold to employees is no different than any other disposition for fluid consumption and properly should be classified and priced in Class I. Producers should not be expected to take a lesser return for their milk simply because the handler wishes to consume it himself or give it to employees.

5. Revision of the classification, assignment and accounting provisions. The classification provisions of the Boston order should be revised to provide that bulk fluid milk products moved from a regulated plant of a pool handler or a

buyer-handler to fully regulated plants under the Connecticut, Southeastern New Engand, or New York-New Jersey orders shall be classified in the class in which assigned in the transferee market.

Under the present order provisions such transfers are Class I up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk in the transferee plant. This provision is generally applicable to transfers to any plant not regulated under the Boston order.

The existing transfer provisions were drafted to accommodate a situation when much of the New England area was not under Federal regulation and were necessary because the Boston pool carried the reserve supply for the entire New England area. It was appropriate therefore, that the pool obtain a Class I raturn on milk supplied to surrounding markets. With the advent of regulation in Connecticut and Southeastern New England, the situation has substantially changed. These markets are expected to generally carry their own reserve supplies and the respective orders for these markets are so constructed that, during the season when supplemental supplies would most likely be needed, for fluid uses, milk obtained from any other Federal order market would be assigned to Class I. The mandatory Class I classification under the Boston order tends to deter movements of Boston milk to the two newer markets because of the possible cost to the transferee handler resulting from incompatible classification as between orders. The Connecticut and Southeastern New England orders defer to Boston in the classification of milk moving to Boston and it is equally appropriate that Boston defer in the case of reverse movements. Occasionally, milk has been moved from Boston pool plants to manufacturing plants in the New York-New Jersey market, which carries its own reserve supplies. Such milk should be classified in Class I only to the extent it is assigned to Class I there. Milk normally does not move beyond New York-New Jersey and is not likely to so move unless required for Class I use. Milk moved to such distant markets should be classified as Class I milk.

No change should be made in the procedure for classification of fluid milk products moved from Boston plants to Springfield and Worcester or to unregulated markets. The Springfield and Worcester markets are small markets and carry only limited reserve supplies. They have historically relied upon the Boston pool for balancing supplies and there is no reason to expect that this situation will change. It is appropriate, therefore, that the Boston pool receive a Class I credit on transfers to these markets. This conclusion is equally applicable in the case of transfers to unregulated markets.

Any fluid milk products which a regulated handler transfers to the plant of a producer-handler should be classified as Class I and should not be subject to reclassification. In view of the fact that producer-handlers are accorded special status as to their own production it is only equitable that when such a

handler obtains milk from the pool that it be assigned as Class I use. This is necessary to prevent the producer-handler from assigning his own surplus to the pool.

The classification provisions of the Springfield and Worcester orders also should be amended to provide, in the case of fluid milk products transferred to the Connecticut or Southeastern New England markets, that such transfers be classified in the class in which assigned in the transferee market. This procedure is followed in the case of transfers between the Worcester and Springfield markets and to the Boston or New York-New Jersey markets and it is appropriate to extend its application to movements to the two newer markets.

Packaged fluid milk products moved to any plant obviously are intended for Class I utilization and should be so classified on the basis of such movement.

The assignment provisions of the Boston order should be revised to provide general priority of assignment of producer receipts to Class I. Priority of assignment to Class II utilization should be given to receipts from unregulated sources and then to receipts from other Federal order sources. No change should be made, however, in the present procedure under which receipts of packaged fluid milk products from other Federal order plants and receipts of exempt milk are assigned to Class I.

Under the existing order provisions. receipts of outside milk which include Federal order bulk receipts (with specified exceptions for milk originating in the New York-New Jersey market), are assigned to Class II, regardless of the extent of actual Class II utilization in the receiving plant. Each handler accounts to the pool for the utilization value of his total disposition at the appropriate class prices and is credited at the Class II price for all receipts of outside milk. To the extent that Class I utilization exceeds pool receipts, the handler thus makes a compensatory payment on the volume of such excess Class I utilization regardless of the classification and pricing of such milk in the originating market in the case of receipts from other Federal order markets. While the adjacent New England orders defer to the Boston classification, thus precluding the possibility of a compensatory charge, this would not be true in the case of Federal order receipts from outside the New England and New York-New Jersey areas. While there is no indication that milk has been received at Boston pool plants from Federal order markets outside of New England or the New York-New Jersey area or that such milk, if received, was in fact subject to an improper compensatory charge, nevertheless the possibility does exist and should therefore be eliminated.

Under the existing order provisions, bulk receipts of Order 27 pool milk are assigned to Class I during the months of August through March and in the remaining months such receipts are assigned to Class II, in each case regardless of actual use. Under the revisions herein proposed, no differentiation is made between receipts of Order 27 milk and receipts of other Federal order milk.

All other Federal order milk is assigned to the highest available use class in the transferee plant after the assignment of producer milk and receipts from regulated plants.

Where importations of other Federal order milk are needed for Class I use, opportunity should be provided whereby the originating market can retain the Class I value of such milk. Since the advent of regulation in Southeastern New England, substantial volumes of pool milk from that market have moved to Boston regulated plants, which milk has been processed there and distributed as Class I milk in both the Southeastern New England and Boston marketing areas. The Class I utilization value of such milk has in all cases accrued to the Boston pool. In some situations this Southeastern milk was actually needed for Class I use and in other cases the movements were made as the most efficient means of handling milk surplus to the Southeastern New England market. The latter milk displaced Boston producer milk which in turn was held at upcountry points for manufacturing uses.

Southeastern New England interests contend that the present assignment procedure is unfair and that Southeastern New England producers should share in the Class I utilization of any milk moved to Boston plants and utilized in Class I. However, it cannot be concluded that adoption of their views would tend to promote equities as between markets in all situations. It is appropriate in situations where the Boston handler's producer receipts are insufficient to cover his Class I utilization, that other Federal order receipts be credited with the residual Class I sales. Where the movement to Boston plants represents a surplus disposal and the milk involved, in reality, merely displaces available Boston producer receipts, however, the exporting Federal order market has no valid claim to Class I disposition. The modifications in the assignment procedure hereinafter set forth will implement these conclusions.

Situations may arise in which milk is received from several other Federal order markets and the problem becomes one of determining which milk shall be credited with the residual Class I use. In such cases a pro rata assignment provides equitable treatment. However, in cases where the transferee plant has route sales in the originating market, the transfers from such market should take priority of assignment to such residual Class I use up to the equivalent volume of route sales into such market from the transferee plant.

The existing assignment provisions of the Boston order are drafted to minimize the transportation costs borne by the pool. No change was proposed in this regard and no change is herein recommended. While the procedure for the computation of location adjustments has been separated from the assignment provisions, the general procedure for computing each pool handler's obligation for producer milk received is unchanged.

The assignment provisions of the Springfield and Worcester orders should also be revised to provide that bulk receipts from other Federal order plants

except Boston shall be assigned to the highest remaining use class after the prior assignment of local pool receipts. Receipts of Boston pool milk should continue to be assigned to Class I for reasons previously stated. While under the existing assignment procedure receipts from Order 27 pool plants are assigned to Class I and receipts from Worcester regulated plants are assigned by agreement, it is appropriate that such receipts be treated in the same manner as receipts from other Federal order markets.

Under the modification of the compensatory payment provision hereinafter proposed, no payment would be applicable to other Federal order milk properly classified and priced in the originating market in accordance with its actual use. Accordingly, unless producer milk is first assigned to the highest use value, there can be no assurance that milk from outside markets would not be used to displace producer milk in Class I whenever it was advantageous to the purchasing handler. If the order permitted handlers to obtain such milk for Class I use when it was advantageous to do so while producer milk was utilized in Class II, the order would not be effective in carrying out the purposes of the Act and the market would be deprived of a dependable supply of milk.

The allocation provisions of the Southeastern New England and Connecticut orders should be revised to better implement the intent expressed in the respective decisions of the Secretary (23 F.R. 8205; 24 F.R. 1049) in providing for the assignment of a specified percentage of producer milk to Class II, prior to the assignment of bulk receipts from other Federal order plants. In addition, provision should be made for the clearing of inventories each month by specific assignment of opening inventory to final disposition in the current month.

The milk from producers who are the regular suppliers of milk for the regulated market should be given priority in the assignment of Class I utilization at pool plants. Milk which is received from other sources should be assigned to the lowest available use classification. Notwithstanding, it must be recognized that during the months of shortest production and greatest demand regulated handlers may find it necessary to procure supplemental supplies from adjacent Federal order markets in order to meet their full Class I needs, even though their total producer receipts equal or exceed their total Class I disposition during the month. This situation could exist as the result of day-to-day variations in receipts and sales. While it is not intended that milk from other markets shall displace local producer milk in Class I, nevertheless if producer milk is not available at the time when needed. local producers cannot expect to receive a Class I credit at such times.

The present allocation procedure was intended to implement the procurement of necessary supplemental milk from other Federal order markets without penalty to the handler procuring such supplies. In addition, the Southeastern New England order also provides for a five percent assignment of producer milk

to Class II prior to the assignment of other Federal order receipts in other than the months of shortest production and greatest demand. This procedure was provided in recognition of the fact that many smaller handlers had long standing arrangements with Boston pool handlers for procuring certain specialty items or balancing supplies and similarly, this, as in other months, was intended to permit continuation of these relationships to the extent necessary, without penalty to the local handler.

Notwithstanding the intent of these allocation procedures, they have not fully accomplished the intended result. While specified percentages of producer milk are allocated to Class II in the current month, closing inventories have expanded Class II utilization so that significant quantities of necessary purchases from other Federal order markets, particularly Boston, have been classified in Class II. The procedure for reclassification of opening inventory assigned to Class I in the immediately succeeding month gives priority to producer milk in Class II in the preceding month, including the producer milk specifically assigned to Class II prior to the allocation of other Federal order milk. Accordingly, much of the necessary other Federal order purchases, classified as Class I in the originating market, have nevertheless been assigned to Class II in the transferee market.

Various proposals considered at the hearing would revise the allocation procedures. The intent of all such proposals was freer movement of milk as between markets and greater equities in the classification of other Federal order receipts.

The dissatisfaction with the present provisions stem, in part, from the fact that the three older orders generally provide a mandatory Class I classification on milk moving to either Connecticut or Southeastern New England. The classification of bulk milk moving between the several orders in the class in which assigned in the transferee market. as hereinbefore proposed, will relieve the burden which has resulted from incompatible classification of milk moving between orders. Nevertheless, handlers in other markets may be reluctant to sell milk for other than Class I use and it is therefore desirable that the present procedure of reserving specified percentages of producer milk in Class II prior to the assignment of other Federal order milk be preserved. The intent of this procedure, however, will be implemented, if wherever possible, other Federal order receipts are assigned to Class II only to the extent of remaining Class II use, exclusive of closing inventory. In addition, a similar procedure should be followed in the assignment of opening inventories. These changes will simplify the problem of inventory reclassification adjustments by generally permitting final classification of all other Federal order receipts and opening inventories in the current month.

It must be recognized, however, that under some circumstances purchases from other Federal order plants may be so extensive in relation to producer re-

ceipts that some Federal order milk is necessarily assigned to closing inventory. Should such inventory be reclassified in the following month a reclassification charge would be necessary on any such milk not classified and priced as Class I in the originating market.

The revisions hereinbefore proposed in the classification provisions of the several orders would provide that milk moving between the local markets be classified in accordance with its classification in the transferee market. Hence, under normal circumstances any other Federal order milk in opening inventory would have been classified in the originating market in Class II. Theoretically, any reclassification resulting from a Class I assignment of other Federal order milk in opening inventory should be returned as a credit to the originating market. However, administratively this would be a complicated procedure and the amounts involved would not appear to justify such procedure. It is concluded therefore that all inventory reclassification credits should accrue to the local pool.

Where inventories represent only unpriced other source or producer milk receipts in the immediately preceding month, the computation of each handler's obligations for inventory reclassification should provide for the payment of the difference between the previous month's applicable Class II price and the current month's applicable Class I price, at the nearest plant location from which an equivalent amount of Class II milk was received in the previous month. A similar procedure should apply on any other Federal order milk on which a reclassification charge is required.

These changes in the allocation procedure, and in the computation of each pool handler's obligation, will accommodate the intent of the various proposals for amendment of these provisions, and at the same time generally preserve the principle of priority of Class I assignment for local producer milk.

No change should be made in the method of accounting required under the Connecticut and Southeastern New England orders. Each of these orders presently provide that milk and milk products shall be accounted for on a skim milk and butterfat basis and priced in accordance with the form in which or the purpose for which such skim milk and butterfat is used or disposed of as either Class I milk or Class II milk. The reasons therefor were fully set forth in the decisions of the Secretary issued in connection with the promulgation of these two orders and there were no new facts presented not previously considered in reaching these decisions.

The classification provisions of the Connecticut and Southeastern New England orders should be amended to provide a specific Class II classification for skim milk and butterfat in the form of fluid milk products lost under circumstances completely beyond the control of the handler or any employee or agent who might be involved. Such classification should be applicable only in the case of plant or truck damage or destruction by fire, flood or other similar catastrophe

in which the milk involved was physically destroyed and such loss can be substantiated by records satisfactory to the market administrator. Loss in this manner is not presently provided for under these orders and accordingly, except insofar as covered by the shrinkage allowance, presently would be classified in Class I. The handler, under the circumstances, obviously would realize no return on milk so lost except as he might be covered by insurance. Nevertheless. producers should not be involved and must be remunerated for all the milk which the handler has received from them. A Class II value is concluded to be appropriate under these circumstances.

It is not intended that this provision shall be applicable to milk lost through faulty pipe connections, opened or leaking valves, broken hoses, contamination and similar accidents which must be considered normal business hazards. Milk lost in such manner is part of the normal shrinkage experience in any milk operation and such losses are adequately provided for under the shrinkage provisions.

Under the terms of these orders skim milk and butterfat processed into other than fluid milk products is accounted for as a Class II disposition when such products are made. Losses of such products would not affect the classification of the milk if the loss can be substantiated to the satisfaction of the market administrator.

The classification provisions of the Southeastern New England order should be amended to provide a Class II classification for both skim milk and butterfat contained in any fluid milk product dumped if prescribed conditions are met. The present requirement of six hours notice to the market administrator prior to dumping should be deleted and provision should be made for advance notice of intent to dump at the request of and in accordance with instructions of the market administrator. No change should be made in the requirement for filing reports following dumping under this order or under the Connecticut order.

The present provisions of the Southeastern New England order provide for a Class II classification only for skim milk dumped. Under normal circumstances the butterfat content of any fluid milk product is salvageable for use in ice cream and certain other nonfluid products, and it is unlikely that any handler would find it necessary to dump any significant quantity of butterfat. Nevertheless, should such dumping occur it is appropriate that a Class II classification be provided since cream is a Class II product under this order. Verification of actual quantities dumped is very difficult. Therefore, it is appropriate that the market administrator be given opportunity to witness any dumping operation. The present rigid six hours' notice requirement, however, may be excessive in some situations and may be insufficient in other situations. Accordingly, it is concluded that the manner and extent of advance notice should be left to the discretion of the market administra-

tor. No change, however, should be made in the two-day reporting requirement on any dumping not witnessed by the market administrator or his agent. Verification of such dumping necessarily must be largely on the basis of records, and it would be a relatively simple matter for a handler to simulate dumping on the basis of constructed records intended to cover excess shrinkage experience or incomplete accounting. Such procedure would be greatly simplified if dumpage reports were not required until after summary reports were completed. It is therefore appropriate that unwitnessed dumping continue to be reported as it occurs.

No change should be made in the basis of allocating shrinkage under the Connecticut order. The order now provides a maximum allowance of two percent on producer milk and in cases involving transfer of bulk milk between plants one-half percent is alloted to the receiving plant and one and one-half percent to the transferee plant. Handlers proposed that the shrinkage provisions be changed to conform with those of the other New England orders which generally provide a two percent shrinkage allowance on the total milk handled.

Under normal circumstances it would not be expected that milk would pass through more than two plants in its movement from the farm where produced to its ultimate disposition as fluid milk on routes or in nonfluid products. Furthermore, a 2 percent total shrinkage allowance is a reasonable allowance on any particular volume of milk. This was established in the original hearing as indicated by the Secretary in his decision of February 9, 1959 and was reaffirmed on the record of this hearing. It is therefore unnecessary and would be inappropriate to permit a handler a greater percentage shrinkage allowance in Class II. The problem appears to rest in the distribution of this shrinkage allowance as between plants. The alternative would be to limit the shrinkage allowance to the original receiving plant or to permit agreement between handlers on each load of milk transferred as to who would take the shrinkage or how it should be prorated. This latter procedure would create unnecessary administrative problems and would accomplish no more than can be accomplished under the present provision. The allowance of one-half percent of shrinkage to the original receiving plant is concluded to be a reasonable allowance for receiving operations and gives assurance to the operator thereof that he will be able to account for his actual shrinkage experience, within this limit, as Class II milk. It also assures the transferee handler of a reasonable share of the total allowable shrinkage. Notwithstanding, should the parties involved be proprietary handlers and agree that a different proration would be more equitable between them, appropriate adjustments would be made in the price at which such milk is transferred. Should the transferor-handler be a cooperative, however, any such adjustment of the shrinkage allowance would not be permissible if it resulted in a price less than that provided by the order.

No change should be made in the Connecticut order in the classification of fluid milk products sold to bakeries or in the classification of and accounting for nonfat dry milk used to produce concentrated milk, half-and-half and reconstituted or fortified skim milk. It was proposed that sale of fluid milk products to bakeries be Class I rather than Class II and that nonfat dry milk used to produce or fortify such specified products be accounted for on a volume rather than skim milk equivalent basis. The reasons for the present procedure were fully set forth in the Secretary's decision of February 9, 1959 (24 F.R. 1049), and no new facts were presented not previously considered in adapting the present procedures.

No change should be made in the classification of ending inventory of fluid milk products under the Southeastern New England order. Such inventory is presently classified as Class II in the current month. A reclassification charge of the difference between the previous month's Class II price and the current month's Class I price is made on any opening inventory which is assigned to Class I in the current month. This procedure tends to assure equal product cost among handlers for milk disposed of in Class I. Since the Class I price may change substantially on a month-tomonth basis, the classification of ending inventory as Class I would provide substantial opportunity for handlers to speculate by either building or depleting inventories from month-to-month for the purpose of gaining a cost advantage and producers would not receive the full use value for their milk.

6. Class I price revisions. The Class I price under the Southeastern New England order should be established at the identical level presently provided under the other four New England Federal orders in lieu of the seven-cent higher price presently provided. This present price level was established on the basis that Boston handlers dispose of substantial quantities of milk into the Southeastern area, both directly on routes and by bulk shipments to regulated plants, and the seven-cent differ-ential was intended to reflect the transportation cost of moving milk between Boston and Providence. In addition, since the Southeastern New England market was a deficit market a higher price would encourage the association of additional milk supplies, and thus, contribute to a general alignment of blended prices as between markets.

While blended prices have tended to equate, largely through the application of the pool plant, transfer, and classification provisions, the Southeastern pool has lost increasing volumes of Class I sales to the Boston pool. Many areas of the Southeastern market are as favorably located in relation to Boston as to Providence and accordingly the present seven-cent differential is not a true measurement of transportation costs. Multiple plant handlers, with plants in both the Boston and Southeastern pools, have tended to increase their Boston distribution in the Southeastern area because of the price differential. Other handlers have adjusted their business

to assure regulation under the Boston rather than under the Southeastern order. Still other handlers have disposed of their local producers in favor of Boston pool purchases; and finally, handlers buying supplemental milk have increased their procurement of Boston

The manner in which handlers have adjusted their business since the initiation of regulation in Southeastern New England clearly demonstrates that the higher price in this market has generally operated to the detriment of local producers. Recent shifts and projected shifts in distribution operation of the larger handlers point up the need for an identical Class I price level as between the New England markets. Further, the area extensions hereinbefore recommended will substantially increase the interrelationship of the two markets and unless identical price levels are established, the Southeastern pool will undoubtedly lose substantial Class I sales as fringe area handlers adjust their procurement programs to eliminate the advantage which their Boston competitors now enjoy.

No change should be made in the Class I pricing provision of the Connecticut order relative to packaged fluid milk products sold on routes in the Order 27 marketing area or to the Order 27 pool

One Connecticut handler with route sales into the Order 27 marketing area contended that he operates at a competitive disadvantage with Order 27 handlers wherever the Order 27 Class I price is less than the Connecticut Class I price. He proposed that the possibility of this situation occurring be eliminated by requiring him to account for his Class I sales in the Order 27 area at the applicable Order 27 price.

The classified pricing plan in effect in the Connecticut order, and generally applicable in all orders issued by the Secretary, establishes one level of price for milk which is sold as fluid milk products for fluid consumption and another, lower price, or prices, for the necessary surplus of the market which is disposed of in lower valued manufactured products. It is intended that the price level effective under the Connecticut order shall bring forth an adequate supply to meet the fluid demand of the marketing area, but not necessarily a quantity to fulfill the requirements of outside markets at prices different from the price established for milk sold in the marketing area. Producer milk sold for fluid uses outside the Connecticut marketing area has the same characteristics of bulk and perishability, is produced under identical conditions and costs, and is subject to the same transportation costs of moving from the farm to the handlers' pool plant, as is milk disposed of inside the marketing area. Different health and sanitation requirements in the New York-New Jersey market might result in somewhat different costs of producing milk for this market only, but would have no effect on cost of producing milk sold to Connecticut handlers.

Class prices in the New York-New

lower than such prices in the Connecticut market. Under usual circumstances the variation in basic price for milk of similar quality and use in the various Federal order markets reflect differences in transportation costs only. These basic prices may be adjusted to reflect differences in seasonality of production and the local supply-demand situation. The New York-New Jersey and New England order Class I prices generally have been maintained at very nearly the same level over the longer While the New England prices term. have been somewhat higher than the Order 27 prices during the past year, this is a temporary situation, largely the result of new regulation in Southeastern New England and Connecticut.

7. Class II price. No change should be made in the level of the Class II price under the several orders. The Class II price under each of the orders is presently established by an identical formula and basically at the same level. The Class II location differentials reflect the cost of moving fluid cream from each zone to the market. In addition, the Boston order provides a butter-cheese adjustment applicable to milk disposed of in butter and hard cheeses during the months of April, May, June, and July under specified circumstances when the Class II price is computed on the basis of cream and nonfat dry milk quotations.

It was proposed that Class II price at plants in the marketing area be increased by an amount reflecting the cost of moving nonfat dry milk to the market from the 201-210 mile zone and that the location differentials be increased to reflect such transportation costs. It was also proposed that the Class II price under the Connecticut order be increased by 10 cents during the months of July and August, and that a butter-cheese adjustment be provided in that order to be effective during the flush production months.

As has been previously indicated in this decision, a large proportion of the surplus manufacturing facilities in the New England area are associated with the Boston pool and Boston pool milk not needed for fluid use is held upcountry for manufacture. Much of the surplus in the other markets is moved to Boston bottling plants where it replaces an equivalent amount of Boston pool milk for Class I use, which is in turn held upcountry for manufacturing uses. This procedure tends to minimize transportation charges for moving milk and results in maximum savings to the pools and to producers. The bulk of the Class II disposition in the marketing area represents milk of local producers processed through manufacturing facilities maintained by cooperative associations. In large measure, the milk processed at such plants represents the seasonal surplus and reserve supplies of smaller handlers, and, except for the existence of these facilities, some producers in the nearby areas would be left without a market for their milk.

The basic Class II price is directly related to values for milk utilized in manufactured products which compete Jersey market may be either higher or in a national market. Cooperative as-

sociations operating plants in the marketing area would be placed at a competitive disadvantage with a higher marketing area Class II price, and it is likely that the milk of local producers in excess of Class I needs would be left without a regular market.

A higher marketing area Class II price would apply to only a small fraction of the total milk supply in the New Enland markets, and would not materially affect the cost of Class II milk for multiplant handlers. Handlers operating only country plants would not be affected at all by such increased Class II price. Accordingly, no change should be made in the marketing area Class II price or the Class II location differentials on the basis of this record.

An increase in the Connecticut Class II price during the months of July and August without a corresponding increase in the Class II price in the adjacent Federal order markets would tend to deter the association of milk with the Connecticut pool during these months. The months of July and August are the initial qualifying months for automatic flush season pooling in Connecticut and are proposed herein to be such under each of the New England orders. Under the revised pooling provisions herein recommended, plants could retain pooling status under one of the other New England orders during July and August to benefit from a lower Class II price and still qualify for automatic pooling status under the Connecticut order during the flush months. This procedure would tend to produce greater disparities in producer prices as between markets during July and August to the detriment of producers in adjacent markets. Such a situation would not tend to promote orderly marketing in the area.

Existing manufacturing facilities in the Connecticut market and available in the adjacent Federal order markets are sufficient to handle any prospective market surplus. No consequential volumes of milk have been processed into butter or cheese and it would be inappropriate to encourage such disposition when adequate facilities exist for processing milk into higher valued manufactured products.

8. Pricing of diverted milk under the Connecticut order. The Connecticut order should be revised to provide for the pricing of diverted milk at the location of the pool plant from which such milk was diverted. The number of days of diversion permitted should be revised to 8 days during the months of July through September and 12 days during the months of October through March, with unlimited diversion permitted during the months of April through June.

Under the existing order provisions, diverted milk is priced at the location of the plant to which diverted, and producers are paid for such milk on the basis of the same location. Twelve days of diversion are permitted in any of the months of July through November and unlimited diversion is permitted in the months of December through June.

Unlike the other New England orders, which deter handlers from withholding milk from the market during the short

months of production and then receiving it as producer milk during the flush production months when outside Class I markets may not be available, the Connecticut order was drafted so as to facilitate free entry of producers to the market at any time. Liberal diversion provisions were included to assure orderly disposition of milk in excess of fluid needs. It was recognized, however, that under such provisions, handlers might associate with plants in the marketing area milk which was not intended essentially for fluid milk consumption in the market, but rather for the purpose of drawing the marketing area blended price, notwithstanding the fact, that such milk was received on a regular basis at upcountry manufacturing plants. To deter this result, it was provided that diverted milk should be priced at the plant to which the diversion was made.

Producers contend that the present pricing provisions do not provide for equitable returns among all producers and that the varying prices returned to individual producers whose milk may be diverted part of the month creates confusion and dissatisfaction in the production area.

It is concluded that milk which has a bona fide association with the local market, but which is diverted when not needed for fluid uses, should be priced at the plant from which diverted. However, to protect the integrity of regulation more limited diversion privileges are needed to establish more clearly what milk is, in fact, sufficiently associated with the market to justify participation in the pool. During those months of greatest need and lowest production there is little need for diversions except to assure the orderly disposition of weekend and other short-run surplus. Diversions on 8 days (4 days in the case of every-other-day delivery) during the months of July through September and 12 days (6 days in the case of everyother-day delivery) during the months of October through March will accommodate this situation.

The months of April through June are the months of highest production and it is desirable that handlers be permitted liberal diversion privileges to nonpool plants to expedite disposition of the necessary seasonal surplus. These are also the months in which monies are withheld from the producers under the "take-out and pay-back" seasonal incentive plan, and it is unlikely that any substantial additional supplies would associate with the market unless there was a prospective outlet for such milk during the "pay-back" months. Accordingly, it is not necessary to invoke any restriction on diversion privileges during these months.

9. Compensatory payments. No change should be made in the application of the compensatory payment provisions under the Southeastern New England and Connecticut orders. The need for and basis of making such payments was clearly established in the respective decisions of the Secretary (23 F.R. 8205; 24 F.R. 1049) in the promulgation of these orders and no evidence was presented at this hearing which was not

considered in reaching the conclusions set forth in those decisions.

The compensatory payment provisions of the Boston, Springfield and Worcester orders should be revised to eliminate such payments on receipts from other Federal order markets which were classified and priced as Class I in the originating market. The amount of compensatory payment on unregulated milk used in Class I, in all cases, should be the difference between the applicable Class I and Class II prices at the location of the originating plant. The compensatory payment on unregulated milk from the States of Connecticut, Massachusetts, Rhode Island, and Maine no longer should be computed on a different basis.

The minimum class prices established under each of these orders apply only on producer milk received at plants subject to full regulation under such order. However, milk may be disposed of for Class I utilization by and from plants not subject to full regulation. Such unregulated plants may sell milk in bulk form to fully regulated plants that in turn use it in supplying their Class I outlets or they may sell Class I milk directly on routes in the marketing area, including sales to government installations.

The role of the compulsory classification system and the minimum prices as set forth in a Federal order is to insure that the price competition from reserve and excess milk will not break the market price for Class I milk, thereby destroying the incentive necessary to encourage adequate production. Because the classified pricing plan of an order is applicable only to fully regulated plants, it is necessary, in order to provide continued stability in the market, to remove any advantage an unregulated plant may attain with respect to sales in the regulated market. Such plants have a real financial incentive to find a means to sell excess milk at prices somewhat less than current Class I levels so long as the price is higher than its value when used in manufactured dairy products. If unregulated plant operators were allowed to dispose of their surplus milk for Class I purposes in the regulated market without some compensatory or neutralizing provision in the order, the disposition of such milk, because of its price advantage relative to fully regulated milk, would displace the fully regulated milk in Class I uses in the regulated market. The plan of Congress as contemplated under the Agricultural Marketing Agreement Act of 1937, as amended, of returning minimum prices to the producers for the regulated market, would be defeated.

Provisions for compensatory payments are necessary in each of the respective orders to insure against the displacement of producer milk for the purpose of cost advantage and to thereby preserve the integrity of the classified pricing programs of such orders.

Provision for partial regulation through compensatory payments makes it possible for a handler operating outside the regulated market to use the facilities of fully regulated plants for disposing of surplus milk not needed for his outside market without imposing the

financial burden of such surplus on producers of the regulated market. Compensatory payments also make it possible for a handler outside the regulated market to maintain small amounts of regular sales in the regulated market without subjecting his greater outside sales to full regulation.

Requiring such outside handler to be fully regulated would mean that he would be required to account to the pool at the full Class I price for all of the milk sold outside the regulated market which is in competition with milk not subject to regulation. Such a requirement for a dealer with little business within the regulated market could readily induce him to abandon his sales in the regulated market. Permitting a handler to continue to sell milk to customers in the regulated market without any form of price regulation would give such handler a competitive advantage as compared to the handler whose primary business is within the regulated market and who consequently is subject to full regulation.

There are a number of local dealers in the area immediately adjacent to the regulated markets who now have direct distribution in the several regulated markets, some of whom maintain unregulated status under the present orders. The area extensions, hereinbefore recommended, may change the status of some of these handlers. In addition, however, other local handlers, not presently doing business in any of the regulated markets, under the amended orders, will have sales in the regulated markets but will operate in unregulated status. Also, there are a number of substantial dealers in the adjacent unregulated areas, many of whom could readily extend their distribution routes into the regulated markets and by preserving their unregulated status could operate with a substantial price advantage over regulated handlers. The compensatory payment provisions prevent such unregulated milk from having a price advantage over regulated milk.

The compensatory payment applicable to unpriced other source milk disposed of in the regulated markets from distributing plants which do not acquire pool status should be the same as those applicable to other source milk distributed from pool plants. It would not be possible to maintain market stability in the New England regulated markets under the classified pricing programs in effect, and as herein proposed to be amended, if nonpool handlers were allowed to distribute unpriced milk in the marketing area without compensatory payments. Handlers distributing such unpriced milk in the regulated markets have the same opportunities to buy milk at the opportunity cost level as do the operators of pool plants who purchase other source milk. In addition, however, the operator of a nonpool plant would undoubtedly have surplus milk in his own plant which he would willingly dispose of on any basis that would yield a higher return than the surplus value. It would be particularly easy to dispose of such milk for Class I use in the regulated markets by bidding for large contracts such as hospitals, defense establishments and other types of institutions. With surplus outlets as the alternative, and no compensatory payments to make, the nonpool handlers would have considerable incentive or margin to underbid the seller of priced milk for such sales. Providing for some method of compensating for, or neutralizing the effect of, the advantage created by unregulated milk, therefore, is an essential and necessary provision of the order

The rate of compensatory payment on outside milk should be the difference between the Class I price and the value of milk for manufacturing uses at the zone location of the originating plant. Class I milk under the New England orders is priced at the plant where the milk is received from producers. Hence, the compensatory payment on outside milk which is assigned to Class I milk should be computed at the same stage of marketing process to be directly comparable. No allowances are made under the orders for costs or profits of handlers in moving producer milk in subsequent stages of marketing. Neither should they be made for outside milk.

The Class II price established under the orders is considered a fair and economic measure of the value of milk in manufacturing uses in New England and hence represents an appropriate value for outside milk not sold in a Class I outlet.

No compensatory payment should be applicable on other source milk which has been classified and priced as Class I in the originating Federal order market.

The Secretary has, in fact, determined that the Class I price applicable on such milk at the originating plant was appropriate under similar price criteria, and it is intended that such milk shall be free to move into whatever market it finds an outlet, without further pricing. The Class I prices under Federal orders are established at levels which are intended to bring forth an adequate, but not excessive supply of milk for the regulated market and prices as between markets are generally aligned, reflecting only differences to compensate for transportation costs involved in moving milk between markets and the supply-demand situation in the local market. Normally, the price in any particular market will not be higher than the cost of purchasing alternative supplies. If a price does become misaligned the remedy is not to impose a compensatory payment but rather to adjust the price.

A unique situation exists in the opportunity available to handlers to move skim milk from the New York-New Jersey market (Order No. 27) into the New England markets at considerable cost advantage over skim milk priced under the New England orders. Under the butterfat accounting system used in Order No. 27 it is possible that skim milk received in producer milk under that order may not carry a Class I price. This situation provides an opportunity for handlers in the New England markets to purchase skim milk from Order No. 27 plants at its value for manufacturing purposes for disposition in Class I. This is not a problem of price alignment as previously discussed but a difference in classification. This situation can be

dealt with best by the application of a compensatory payment. A compensatory payment is necessary therefore in the case of skim milk, as such, entering the New England markets for Class I use from Order No. 27 pool plants, to remove any cost advantage in the use of such skim milk. Such payment should be at the difference between the Class I price and the Class II price under the respective orders for the zone location of the originating plants.

10. Take-out pay-back plan. change should be made in the seasonal incentive pricing plan presently provided under the Connecticut order. The seasonality of pricing in the Class I pricing formula under the Connecticut order is identical to that under the other New England orders. In addition, the order now provides for a deduction of 15 cents per hundredweight from the amounts otherwise payable to each producer during the months of April, May and June, and one-third of the aggregate amount of such deduction is paid to producers on a hundredweight basis in each of the months of July, August and September. Producers proposed that the amount of the "take-out" be increased to 25 cents while handlers proposed elimination of the plan.

A "take-out and pay-back" plan was operated under the State milk order in the Connecticut market for a number of years and such plan was effective in promoting a more even production pattern in the market. With the advent of Federal regulation in April 1959, the Secretary concluded that such a plan would complement the seasonality of pricing set forth in the pricing formula in encouraging a more even seasonal pattern of production.

The order has not been in effect a sufficient time to appraise the effectiveness of the present pricing mechanism in achieving its intended result. It cannot be concluded therefore that elimination of the take-out-pay-back plan is desirable or necessary. Neither is it apparent that a higher take-out is desirable. The Connecticut price generally has been favorable in relation to the prices paid in adjacent competing markets and the greatest differences have occurred in the pay-back months of July, August and September. The amount by which the Connecticut price has exceeded the price in adjacent markets during these months should be sufficient to attract an adequate milk supply. Therefore, no change should be made in the plan at this time.

11. Nearby farm location differentials. No change should be made in the nearby farm location differential provisions in the Connecticut order. The present provisions provide for the deduction from the pool of sufficient funds to return to producers in specified nearby areas 46 and 23 cents, respectively, in excess of the applicable uniform price. The present 46-cent nearby location differential area includes all of the State of Connecticut, that portion of New York State lying east of the Hudson River and south of the New York State Extension of the Massachusetts Turnpike, and that portion of Massachusetts lying south of the Massachusetts Turnpike. The present 23-cent nearby location differential area includes that portion of New York State east of the Hudson River, north of the New York State extension of the Massachusetts Turnpike, and south of the northern boundaries of North Greenbush, Sand Lake and Stephentown townships in Rensselaer County.

Various proposals considered at the hearing would eliminate the nearby location differential, extend the 46-cent area, and extend the 23-cent area.

As stated in the Secretary's decision of February 9, 1959 (24 F.R. 1049), the present provisions were established in recognition of the higher Class I utilization, and higher returns that nearby producers had customarily received over more distant producers. In addition, the use of a nearby differential was expected to implement price alignments with adjacent Federal order markets and thus assure Connecticut handlers of the ability to compete in the purchase of milk on reasonable terms with dealers in adjacent markets.

Notwithstanding the intent of the nearby location differentials nearby producers in the Connecticut market have, in fact, gained only slightly from such differentials. More than 90 percent of the total milk in the pool has been subject to these differentials and accordingly nearby producers in the 46-cent area have paid from 40 to 43 cents to gain 46 cents. Although the Connecticut blend prices have been substantially in excess of the NewYork-New Jersey price in competing areas, this situation would not have been changed appreciably in the absence of a nearby location differential provision. Perhaps a more restricted area might have implemented price alignment to a greater extent in Columbia County, New York. The record of this hearing, however, does not provide an adequate basis for revising the existing areas.

Proponents for extension of the nearby differential area contended that adoption of their proposals would make all the direct delivery milk eligible for the farm location differential and would eliminate price differences presently existing between neighboring farms delivering milk to the same plants. While this would result, it must be recognized that further extensions would merely increase the presently existing price disparities between Connecticut and New York-New Jersey in parts of Columbia and Rensselaer Counties. In addition, the territory of proposed extension is also a Boston supply area. Any increase in the Connecticut price at this point would create further procurement problems for Boston handlers operating here. Therefore that extension of the existing area would not accommodate the situ-

Complete elimination of the nearby farm location differential would improve slightly the price disparities existing in the Dutchess County and Columbia County areas now in the 46-cent area and would not significantly affect returns to producers in Connecticut. It would, however, increase the price to producers in the existing 23-cent area by

about 17 cents and the price to upcountry producers by about 42 cents; where Connecticut prices already exceed prices in competing markets. Hence, elimination of the nearby differential would merely extend the problem of disparate prices as between markets in a common supply area.

On the basis of this hearing record it is concluded, therefore, that no changes should be made in the nearby farm location differential provision of the Connecticut order.

The nearby differential area under the Worcester order should be extended to include the towns of New Ipswich, Greenville, Mason, Brookline, and Hollis, New Hampshire. These towns are presently in the location differential zone under the Boston order. Handlers who would be brought under regulation by the extension of the Worcester order as hereinbefore proposed buy milk from producers in the towns of New Ipswich, Greenville, and Mason. Unless these towns are included, it is likely that these producers will seek an outlet with Boston handlers to take advantage of the higher price paid producers in the nearby area. At least one Worcester producer is located in the town of Hollis and it is likely that additional supplies would be procured from this area if the Boston and Worcester prices were better aligned at this point. Brookline, which lies between Hollis and Mason, should be included in the same differential areas as these two towns.

Extension of the marketing areas as hereinbefore proposed would step-up competition for milk supplies in the immediately adjacent local areas. For competitive reasons it is desirable that producers qualifying for the nearby differential under the Boston order should likewise be in a position to qualify under the Worcester order.

No change should be made in the nearby location differentials presently provided under the Boston, Worcester, Springfield, and Southeastern New England orders. The existing rates have provided appropriate competitive price alignment between the nearby and upcountry areas and among Federal order markets.

12. Revision of payment dates. The Greater Boston, Springfield and Worcester orders should be revised to provide for final payment to producers by the 20th day of the succeeding month. No change should be made in dates of payment to producers under the Southeastern New England order. However, the date for making payments to the administrative and marketing service funds should be advanced from the 20th to the 16th day after the end of the month to correspond with the date for making payment to the producer-settlement fund.

The three oldest orders presently require final payment to producers by the 25th day of the succeeding month while the Southeastern New England order requires payment by the 20th day. Bargaining cooperatives with producer members under the three oldest orders proposed advancement of the payment date to the 20th while operating coop-

eratives generally opposed the proposal. Handlers under the Southeastern New England order proposed moving the payment date provided in that order to the 25th day.

It is desirable that producers be paid as promptly as possible after the end of each pooling period. Under the existing payment schedule of the three oldest orders handlers actually may retain monies due producers for 40 days in the case of deliveries made on the 1st and 16th of the month and a maximum of 25 days in the case of deliveries made on the 15th and the 30th of the month. This appears to be an unreasonably long time to require producers to extend credit to handlers. Since the uniform price is announced on the 12th day of the succeeding month requirement of payment by the 20th should provide adequate time in which to clear the pool, prepare producer payrolls, and issue individual producer checks. This can be accomplished by requiring payments to the pool on the 18th of the month and payments from the pool on the 20th of the month.

Payments to the administrative fund and the marketing service fund should be required on the 18th, when payments are due the producer-settlement fund.

With the advancement of final payment to the 20th, it is appropriate that the advance payment date for milk received during the first fifteen days of the preceding month be advanced to the 5th of the month. The existing provision which waives the advance payment if final payment is made by the 17th should be deleted. All other payment dates are being advanced five days. This date cannot be so advanced because handlers could not be required to make final payment on the day that the blended price is announced.

While handlers who have not previously made payment before the 25th will necessarily have to make adjustments in order to make payments by the 20th, the benefits to producers of earlier payments necessarily outweigh any additional cost to handlers. Some of the large handlers operating in the three markets customarily have paid by the 20th of each month and many Federal orders require final settlement by the 15th day after the end of the month. Requirement of final payment by the 20th is therefore reasonable and appropriate.

No change should be made in the date on which handlers are required to file reports with the market administrator. Sufficient time must be provided for processing individual handler reports preparatory to the announcement of the blended price, clearing of the pool, and payment of producers. No additional time can be provided if this schedule is to be met.

Under each of the five New England orders the date on which the interest charges on overdue accounts accrue should be changed to the day following the clearance date of the producer-settlement fund. The Greater Boston, Springfield and Worcester orders now specify the 11th day of the month following that in which payment is due for the addition of interest charges, while

the Southeastern New England and Connecticut orders provide for computing such interst charges from the first day of the following month.

The effect of the interest charges on overdue accounts is to encourage timely payment of obligations. Prompt payment of obligations is important to effect clearance of the producer-settlement fund and to assure that sufficient funds are available to complete payment to creditor handlers.

Certain handlers under the three oldest markets have found that payments to the producer-settlement fund can be delayed under the present orders until the 10th day of the following month without penalty and they consistently delay payments until such date. If all handlers were to avail themselves of this opportunity, the pool would become bankrupt before clearance could be made each month unless a substantially larger cash reserve were to be retained by the market administrator.

When credit is extended it is only good business practice for the creditor to be remunerated with appropriate interest and such interest should begin to accrue promptly when any obligation becomes overdue.

13. Marketing service provision in the Boston order. Provision should be made in the Boston order for performing marketing services for producers, such as verifying the weights and tests of producer milk and dissemination of market information. The services should be provided by the market administrator and the cost should be borne by the producers receiving the services. Where a cooperative association is actually performing for its member producers the services which the market administrator would otherwise provide under this provision, such producers who are members of such an association would not be subject to the marketing service deduction.

While a market service provision has not been included in the Boston order in recent years, a similar provision is provided in each of the other New England orders. Necessarily, because of the importance of the Boston market in the New England area, the marketing information disseminated by the respective market administrators of the other New England orders has generally covered the highlights of the Boston market. Such information, compiled and disseminated at the cost of nonmember producers in the adjacent markets, has been generally available to Boston producers on direct request or through the medium of the State Universities, extension agencies, and local newspapers. Accordingly, Boston producers should stand their proportionate share of the cost of such work.

In addition, the States from which Boston draws its milk supply have in the past conducted extensive butterfat testing programs and have supervised adequately the checking of scales at country plants. With the advent of bulk tank handling, however, the situation has changed significantly. The samples for butterfat testing must be taken, and checking weights of producer milk must be done at the farm rather than at the plant in the case of producers with farm

tanks. Hence the work previously done at less than a hundred country plants must now be carried out at hundreds of farms which have no cooperative affiliation. The respective States have neither the personnel nor the funds to carry out an adequate check testing and weight verification program. It is desirable, therefore, that funds be available to supplement the State work to the extent necessary.

Provision should be made for a maximum deduction of two cents per hundredweight on receipts of milk from all nonmember producers. This rate of deduction appears reasonable in view of the substantial number of producers involved, and should provide the necessary funds to support an adequate marketing service program. Should experience indicate that such service can be performed at a lesser rate, provision is made whereby the Secretary may adjust the rate downward without the necessity of calling a hearing to consider the matter.

No change should be made in the maximum rate of the marketing service deduction allowable under the Southeastern New England order. This is a maximum rate and provision is made whereby it can be reduced should it be determined that the services can be performed for a lesser rate.

Under usual circumstances the determination of a lesser rate than the maximum prescribed by an order is the responsibility of the Secretary. However, the Southeastern New England, Springfield, and Worcester orders each provide that this determination shall be made by the market administrator. It is desirable that this responsibility be retained by the Secretary since he has the responsibility of determining which cooperatives are qualified associations and which associations actually are performing adequate marketing services. Because of the general overlapping of the supply areas for the New England markets it is desirable that generally compatible marketing services be performed by each market administrator. can best be accomplished if the decision is left to the Secretary as to the amount of funds necessary.

14. Administrative assessment. No change should be made in the maximum rate of the administrative assessment prescribed under the Southeastern New England order. The rate of 5 cents per hundredweight set forth in the order is a maximum rate and provision is made whereby such assessment may be reduced by the Secretary at any time he determines that a lesser amount would provide sufficient funds for the administration of the order. Official notice is taken of the fact that effective December 1. 1959 the rate of assessment was reduced from 5 to 41/2 cents per hundredweight. The proposed change to 2 cents per hundredweight would not provide adequate administrative funds.

The administrative assessment should not be extended to cover producer-handlers. The order is intended to exempt producer-handlers except for the filing of reports as required by the market administrator to permit ascertainment of continuing status as producer-

handlers. Except for intermittent verification of reports no substantial time or money would be involved in administration of the order as it applies to producer-handlers, and it is therefore neither necessary nor appropriate that they be required to contribute to the administrative assessment fund.

As has been previously indicated, it is intended that the orders shall permit free movement of milk as among regulated markets. In line with this conclusion, it is desirable that there be no administrative assessment on receipts from other Federal order markets. Such milk is subject to administrative assessment in the originating market, and the assessment rate may be more or less than the rate in the transferee market. Since primary responsibility for audit of the originating handler's books and records would rest with the market administrator in the originating market, the local market administrator would incur little expense in connection with such milk. Accordingly, the administrative assessment provisions of each of the New England orders, except Connecticut, should be revised to implement this conclusion.

15. Miscellaneous. The handler definitions under the Southeastern New England order should not be revised to include the operator of a plant located in the marketing area from which no fluid milk products are disposed of directly or indirectly in the marketing area.

The existing provision defines a handler as any person who operates a plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area. This definition is sufficiently broad to include any plant operator who could conceivably have any monetary obligation to the pool.

Proponents argued that their proposal would simplify the problem of order administration by requiring a report from any plant located in the marketing area, which plants could conceivably have disposition in the marketing area.

Any plant with marketing area Class I disposition must report under the existing provisions of the order. The proposed change would in no way alter such handler's obligations under the order. It would, however, place an additional burden on certain plants for which reports would serve no useful purpose.

The "dairy farmer for other markets" definition under each of the orders, other than Connecticut, should be modified to exclude a dairy farmer whose milk is delivered to a pool plant during the flush months of December through June but who was not a producer during each of the months of July through November because the plant to which he now delivers was a pool plant under another Federal order.

With the greater flexibility provided for plants to move between pools it is essential that the dairy farmer regularly delivering to a plant retain producer status in the same market in which such plant is currently pooled. Unless this is accomplished dairy farmers who have held producer status on a month-tomonth basis throughout the short production months, but not necessarily in the same market, would be denied such status during the flush, notwithstanding the fact that the plant to which they have customarily shipped currently held pool plant status. This result would defeat the purpose of the liberalized pooling requirements since plants would be deterred from shifting from one market to another because of the prospective loss of producer status by their regular shippers during the flush months.

Subparagraph (1) of the "dairy farmer for other markets" definition in the three oldest orders, which deals with the dairy farmer whose milk is purchased by a dealer who does not operate a regulated plant but whose milk is moved to a regulated plant directly from the farm should be revised to exclude an individual who is a producer under another Federal order. The Secretary's decision of March 24, 1959 (24 F.R. 2441) clearly established that it was not intended that this definition should include a dairy farmer who was a producer under another Federal order but whose milk was diverted to a regulated plant. The amendatory language, while implementing this conclusion as it relates to a situation where only one handler is involved, did not cover the situation where the unregulated plant is operated by a different handler. While no situation has thus far arisen involving this sort of transaction, it was proposed at this hearing that the revision be made to conform with the intent of the aforementioned decision.

The "dairy farmer for other markets" definition under the Southeastern New England order should also be further modified to exclude a dairy farmer who is a producer under another Federal order and whose milk is received at a fully regulated plant as diverted milk.

It is intended that handlers have the privilege of diverting producer milk in bulk under one order to a plant regulated under another order. Under many circumstances this represents the most efficient means of handling bulk tank milk and it is unnecessary to require physical receipt at the transferring handler's plant. Milk so diverted should be treated as an interorder transfer and classified and priced in the class assigned to the transferee market.

The "dairy farmer" definition under the Southeastern New England order should be clarified by changing the reference "bulk" milk to "milk delivered in other than packaged form". The term "bulk" milk, as now generally used refers to milk moved via bulk tank as contrasted to cans. In order that there can be no question of meaning, it is appropriate that the reference to bulk milk be deleted.

With the advent of bulk tank handling the dairy farmer under normal circumstances loses control of his milk when it is transferred at the farm from his farm bulk tank to the handler's pickup tanker. In some instances milk actually picked up by the handler at the farm may be lost through accident enroute to the plant. In such event the milk cannot be received at a plant and the present provision of the order would not require

the handler to account for it. In such situations the handler has, in fact, taken over responsibility for the milk and he should be held responsible for it. This can be accomplished by revising the producer milk definition in the Southeastern New England order to include milk actually picked up at the farm but not delivered to any plant, if milk was received at the handler's pool plant from such dairy farmer during the same month as producer milk.

The producer definition under the Southeastern New England order should be revised to permit diversion to another pool plant of the same handler provided that no location differential is involved.

Diversions are presently permitted to pool plants of other handlers or to the plant of buyer-handlers. At least one handler operates two pool bottling plants in the Southeastern New England marketing area. The present order language would appear to preclude diversions between such plants, whereas, in fact, such procedure could have no detrimental effect on the pool. This would not be true in the case of diversion between plants located in different zones. If such diversions were permitted a handler could associate milk with his marketing area plant and yet regularly receive it at his country plant. The net savings in transportation would more than compensate him for the higher price at which he would be required to account to the pool, and the producers involved would receive returns higher than justified based on the location of the plant of actual receipt, to the detriment of other producers in the market.

No change should be made in the procedure for computing the producer butterfat differential under the Connecticut order. The existing procedure is identical with that prescribed in the other New England orders except for rounding to the nearest full cent. A handler proposal would eliminate the rounding to provide for an identical differential in each of the several orders, while a producer proposal would revise the procedure of computation by elimination of the use of the cream quotation and providing for the use of current New

York butter quotations.

As has been previously pointed out, the several New England markets draw from a generally common supply area. A different butterfat differential is a source of confusion to producers who have alternative markets. Ideally, the procedure of computation should be identical, and if simplification of the procedure is desirable, it should be accomplished in all of the orders at the same time. The present procedure has proven satisfactory in the three oldest New England orders over an extended period of time, and no change could be made in these orders or in the Southeastern New England order on the basis of this record.

While rounding to the nearest full cent, as provided under the Connecticut order, does result in a different differential than that used in the adjacent orders, Connecticut producers have been accustomed to payment on this basis and generally opposed change. It is concluded, therefore, that no change should be made on the basis of this record.

Provision should be made in the Connecticut order for written notice of butterfat tests to producers whose milk is purchased on the basis of composite tests. within 7 days of the end of each sampling period. The State laws require that handlers hold their composite samples for ten days after the end of the sampling period. Unless a producer has knowledge of his test before the samples are disposed of, he has no basis for further check even though he believes the test reported to be in error. Handlers now customarily advise producers of their test in the statement which accompanies their checks issued not later than the 22d day after the end of the month. Since ten-day composites are the practice in the market, the samples would have been disposed of before the producer has knowledge of his test. It is appropriate, therefore, that handlers who buy on the basis of composite tests be required to notify producers within 7 days after each test. Such a requirement is not necessary in the case of handlers buying on the basis of daily samples. The testing in such cases is done by the State and producers are notified of their tests by the State.

The area in which there are no plant location differentials under the Connecticut order should not be extended.

A cooperative association which operates a receiving plant at Great Barrington. Massachusetts, proposed that the plant location differential applicable there be eliminated so that no adjustment would apply to the Class I price for the cost of moving milk to the market.

The Connecticut order provides zoning adjustments which recognize the principle that milk similarly used and located. should be similarly priced. Milk originating nearest the market should command a higher price than milk located at greater distances. This higher price ordinarily should be based on the difference in cost for moving such milk to the marketing area. The rates presently provided as adjustments for location in the Class I and uniform price are 33 cents per hundredweight for milk received at a plant located outside Connecticut or an adjacent town in Massachusetts and Rhode Island and 50 to 60 miles from Hartford. The Great Barrington plant is located in the 50-60 mile zone from Hartford, and the handler's obligations to the pool and the prices returned to his producers reflects the location differential applicable for this zone.

Although the Great Barrington plant is unique in that it performs in a nearby location a market supply function which is ordinarily performed by more distant plants, there is no valid basis for extension of the no-location-differential zone to include such plant. It performs as a supply plant for the Connecticut market, receiving and assembling milk, and at additional transportation cost moving it to handlers as required. The additional cost of transporting milk received at this plant to its final destination at the distributing plants must be recognized in the Class I and uniform price.

The provisions of the Connecticut order relating to "start" and "stop" notices should be revised to require prompt notices only for those producers whose milk is not directed to or from a handler's plant by a cooperative association.

The Connecticut order presently requires a handler to file with the market administrator a "start" notice on every producer from whom the handler receives milk within 20 days of the first delivery to the plant. A "stop" notice must be filed within 15 days after the fifth consecutive day of no delivery. The Southeastern New England order presently requires notification within five days after a producer first starts delivery and, in the case of cessation of deliveries for five consecutive days, prompt notification to the market administrator is required.

The primary purpose of "start" and "stop" notices is to assist the market administrator and cooperative associations in their marketing service programs. However, in many situations in the Connecticut market, the cooperative association moves its member's milk from plant to plant as needed on a dayto-day basis. In such cases the cooperative is fully aware of where its members' milk is being delivered and notice by the receiving handler serves no useful

purpose.

Where the producer negotiates directly with the handler for a market or leaves a handler on his own initiative, his cooperative association may not have knowledge of where his milk is currently. delivered. This information can be obtained from the market administrator if the handler is required to give notice thereof. Where the producer is not a member of a cooperative association, his location of current delivery is essential if the market administrator is to perform the marketing service for which such producer is paying. Prompt notice is therefore essential and accordingly the 20-day requirement presently provided in the Connecticut order should be reduced to 5 days to conform with similar requirements in the Southeastern New England order.

Certain of the information presently supplied to the market administrator in the "start" and "stop" notices is needed promptly following the close of each month to facilitate preaudit work in the market administrator's office. It is provided therefore that for those producers whose milk is directed to or from the handler's plant by a cooperative association, the handler shall, in lieu of the present start or stop notice, supply such of the information as the market administrator shall require on or before the 8th day after the end of the month.

The payment provisions of the Southeastern New England order should be revised to delete the present requirement that all deductions must be authorized in writing. However, it should be made clear that the burden for proving that any deduction is authorized shall rest with the handler.

Handlers contend that the present requirement is unreasonable and impractical particularly as it relates to supplies which producers customarily purchase through the handler by way of the

trucker. It is concluded that written authorization need not be required to maintain the integrity of regulation. However, the handler must be held responsible to prove to the satisfaction of the market administrator that any deduction made was, in fact, authorized and was properly chargeable to the producer.

The date for adjusting errors in payments under both the Southeastern New England and Connecticut orders should be revised to provide that such adjustments shall be paid on the date for making payments for the month in which notification is given. The orders presently provide that such adjustments are due on the date for making payments for the month following that in which notification is given. It is intended that obligations incurred under the orders shall be paid promptly. There is no reason why adjustment billings issued by market administrator following verification of a handler's reports, books, records or accounts should not be paid as promptly as the original billings. Under the present Connecticut order language. for example, adjustment payments due producers would not be due for as long as 73 days in the case of billing made on the 1st day of the month. The proposed revision would reduce this time by 30 days.

The Connecticut order should not be amended to provide specifically, in the case of bulk tank milk, that the handler shall be held accountable for the volume of milk which his agent picked up at the farm. Under normal circumstances it is expected that the market administrator would consider that the volume of milk which the handler or his agent picked up at the farm, as indicated on the slips left with the producers was, in fact, delivered to his plant and the burden of proof to the contrary necessarily rests with the handler. Since the producer has full opportunity to read the stick measurement prior to pickup or concurrently with the hauler at the time of pickup, stick readings are the final and only valid measurement of each producer's milk. Milk may, of course, be lost by accident in transit. In such a case the existing order language would not require the handler to account to the pool for such milk since it was not received at a plant. Nevertheless it is likely that the handler would necessarily have to pay the producer the blended market price or have to contend with an unhappy producer. Thus, the existing order language does not present any substantial administrative problem.

Since a very high proportion of the milk received by Connecticut handlers is milk of cooperative association members which is picked up at the farm by haulers contracted for or employed by the cooperative, the situation is somewhat different than in the other New England markets. It would be inappropriate to require the handler to pay for milk on the basis of stick measures for which he had no direct responsibility. While the cooperative takes the position that their driver is, in fact, the agent of the handler it is not clear that this is true. It would be desirable in situations where the cooperative is actually marketing its member milk, picking it up at

the farm and delivering it to the handler's plant, that the cooperative be held as the responsible handler. Such position meets neither the approval of the cooperative nor of the proprietary handlers. Since no serious problem appears to have arisen to date, and any dissatisfaction in regard to weights and tests have thus far been satisfactorily adjusted between the cooperative and the handler, it is concluded that no change should be made on the basis of this record. If a change is desired the problem should be given more complete consideration at a future hearing.

Other changes in the order as hereinafter proposed involve elimination of obsolete language or are conforming changes to implement the intent of the proposed order revision hereinbefore discussed.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested persons in the markets. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratifled and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreements and the orders as hereby proposed to be amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the proposed marketing agreements and the orders as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Recommended marketing agreements and orders amending the orders. The following orders amending the orders

regulating the handling of milk in the Greater Boston, Massachusetts; Southeastern New England; Springfield, Massachusetts; Worcester, Massachusetts; and Connecticut marketing areas are recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended.

Milk in Greater Boston Marketing Area

#### DEFINITIONS

#### § 904.1 General definitions.

- (a) "Act" means Public Act No. 10, 73d Congress, as amended, and re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.
- (b) "Greater Boston, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Andover. Merrimac. Arlington. Methuen. Milton. Ashland. Avon. Nahant. Natick. Aver. Bedford. Needham. Belmont. Newton. North Andover. Beverly. North Reading. Billerica. Norwood. Boston. Braintree. Peabody. Brookline. Quincy. Burlington. Randolph. Reading. Cambridge. Revere. Canton. Chelmsford. Salem. Chelsea. Saugus. Cohasset. Sharon. Sherborn. Dedham. Somerville. Dover. Southborough. Dracut. Everett. Stoneham. Framingham. Stoughton. Swampscott. Groveland. Haverhill. Tewksbury. Tyngsborough. Hingham. Holbrook. Wakefield. Walpole. Holliston. Waltham. Hopkinton. Hull. Watertown. Lawrence. Wavland. Lexington. Wellesley. Westford. Littleton. Lowell. West Newbury. Lynn. Weston. Westwood. Lynnfield. Malden. Weymouth. Wilmington. Marblehead. Marlborough. Winchester. Medfield. Winthrop. Medford. Woburn. Melrose.

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 904.15(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: Provided, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered

as a continuation of the routes of the plant where such fluid milk products are packaged.

(d) "Emergency period" means the period of time for which the market administrator declares that an emergency exists in that the milk supply available to the marketing area from producers is insufficient to meet the demand for Class I milk in the marketing area.

#### § 904.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association, or any other business unit;

(b) "Secretary," means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture;

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk;

(d) "Dairy farmer for other markets" means any person described in sub-paragraphs (1), (2) and (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of

another Federal order.

- (2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order.
- (3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was considered as a receipt from a producer under another New England Federal order or of own production of a producer-handler under any New England Federal order.

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of and persons who control or

are controlled by the handler or dealer.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, nor a dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Dealer" means any person who during the month operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk

products in the marketing area.

(h) "Handled" means (1) any person who during the month operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any handler who operates a pool plant.

(j) "Producer-handler" means person meeting the conditions of subparagraph (1) or (2) of this paragraph. who is both a dairy farmer and a handler who processes milk from his own farm production, distributing all or a portion of such milk as Class I milk in the marketing area on routes: Provided. That the maintenance, care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area: (1) Whose own farm production or Class I sales, whichever is less, does not exceed. 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or (2) whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not to exceed two percent of his own farm production.

#### § 904.3 Definitions of plants.

(a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products: Provided, That this definition shall not include any separate building. premises, equipment and facilities used primarily to hold or store packaged fluid milk products in finished form in transit on routes.

- (b) "City plant" means any plant which is located not more than 40 miles from the State House in Boston.
- (c) "Country plant" means any plant which is located more than 40 miles from the State House in Boston.
- (d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.
- (e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 904.20 and 904.21, except a pool plant under another Federal order, the plant of a producerhandler under any Federal order, or a plant from which emergency milk is received.
- (f) "Distributing plant" means any plant from which fluid milk products processed and packaged at the plant are distributed in the marketing area on routes.
  (g) "Regulated plant" means (1) any
- pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater percentage of its Class I milk in another marketing area on routes.

(h) "Supply plant" means any receiving plant, other than a regulated distributing plant, from which fluid milk products are shipped in bulk to a distributing plant.

(i) "Other Federal order plant" means a pool plant under another Federal order. or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

#### § 904.4 Definitions of milk and milk products.

- (a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk: reconstituted milk; and 50 percent of the quantity by weight of "half and half".
- (b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.
- (c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.
- (d) "Skim milk" means that fluid product of milk which remains after the

removal of cream, and which contains less than one-half of one percent of but-terfat.

- (e) "Half and half" means any fluid milk product, except concentrated milk, the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.
- (f) "Concentrated milk" means the concentrated, unsterilized milk product, resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consumption.
- (g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50 percent of the quantity, by weight, of "half and half".
- (h) "Producer milk" means milk which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.
  - (i) "Outside milk" means:
- (1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk or emergency milk.
- (2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month,
  - (j) "Exempt milk" means:
- (1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the operator of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control: or
- (2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are

temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control; or

- (3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.
- (k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted:
- (1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as producer milk from the farm by tank truck; or
- (2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.
- (1) "Emergency milk" means fluid milk products received at a regulated plant during an emergency period from a plant which was an unregulated plant in the month immediately preceding the month in which the emergency period became effective.

#### MARKET ADMINISTRATOR

## § 904.10 Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

## § 904.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and
- (d) To recommend amendments to the Secretary.

## § 904.12 Duties of market administrator.

The market administrator, in addition to the duties described in other sections of this part, shall:

(a) Within 45 days following the date upon which he enters upon his duties

execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay out of the funds provided by \$904.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate;

- (e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;
- (f) Promptly verify the information contained in the reports submitted by handlers; and
- (g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

#### CLASSIFICATION

#### § 904.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 904.16 and 904.17, the classes of utilization shall be as follows:

- (a) Class I milk shall be:
- All milk and milk products sold, distributed, or disposed of as or in milk;
- (2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk:
- (3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and
- (4) All milk and milk products the utilization of which is not established as Class II milk.
- (b) Class II milk shall be all milk and milk products the utilization of which is established;
- (1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and
- (2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

## § 904.16 Classification of fluid milk products moved to other plants

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

- (a) As Class I milk if moved as packaged fluid milk products to any other plant;
- (b) As Class I milk if moved to the plant of a producer-handler under any Federal order;
- (c) In the class to which assigned under §§ 904.25 and 904.26 if moved as bulk fluid milk products to any other handler's regulated plant;

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under the Connecticut, Southeastern New England, or New York-New Jersey order:

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under the Boston, Connecticut, Southeastern New England, or New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England

#### States and New York State.

## § 904.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

#### DETERMINATION OF POOL PLANT STATUS

#### § 904.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section.

- (a) It is a distributing plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and Class I route disposition in the marketing area of not less than 10 percent of its receipts from dairy farmers, and such route disposition in the marketing area exceeds its Class I route disposition in any other New England Federal marketing area.
- (b) It is a plant located in the marketing area which is operated by an association of producers and the Class I route disposition from the plant does not exceed 2 percent of the total receipts of fluid milk products at the plant.
- (c) It is a supply plant from which at least 15 percent of its total receipts of milk from dairy farmers is shipped as bulk fluid milk products to regulated distributing plants.
- (d) For any month of August through November, it is one of a group of supply plants:
- (1) From which the handler ships at least 15 percent of the combined total receipts of milk from dairy farmers as bulk fluid milk products to regulated distributing plants; and
- (2) For which he requests continuation of pool plant status which such plants held under his operation in the preceding month.
- (e) It is a supply plant which would otherwise fail to qualify as a pool plant under any Federal order and from which at least 15 percent of its total receipts of milk from dairy farmers is shipped as bulk fluid milk products to distributing plants each of which has total Class I disposition of at least 50 percent of its

total receipts of fluid milk products and Class I route disposition in the marketing area of not less than 10 percent of such receipts.

## § 904.21 Supplementary pooling provisions for supply plants.

- (a) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if in each of the preceding months of July through November it was a pool plant or would have been a pool plant had it not been a pool plant under another New England Federal order unless:
- (1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this part;
- (2) The plant is designated as a non-pool plant pursuant to paragraph (e) of this section; or
- (3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.
- (b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this part than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.
- (c) Any supply plant, except a plant which has automatic pool plant status for such month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it meets the conditions and requirements for pool plant status under another New England Federal order and ships a greater quantity of bulk fluid milk products to regulated distributing plants under that order than it ships to regulated distributing plants under this part.
- (d) Any supply plant shall be a non-pool plant in each of the months of December through June if it was a nonpool receiving plant under each of the New England Federal orders during any of the preceding months of July through November in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Federal order.
- (e) A supply plant shall be a nonpool plant in any of the months of Decem-

ber through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

- (f) A supply plant shall be a nonpool plant in any of the months of July through November for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month, if:
- (1) All of the fluid milk products received at regulated plants from such plant during the month are assigned to Class II milk pursuant to § 904.26; and
- (2) The plant qualifies as a pool plant under the provisions of another New England Federal order in such month.

## § 904.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

- (a) Receipts of exempt milk;
- (b) Receipts of emergency milk eligible for assignment to Class I milk pursuant to § 904.27;
- (c) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;
- (d) Receipts from other handlers' regulated plants of packaged fluid milk products;
- (e) Receipts from other handlers' regulated plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers;
  - (f) Receipts from producers;

(g) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraph (e) of this section;

- (h) Receipts from other Federal order plants of bulk fluid milk products subject to classification and pricing as Class I milk under the other Federal order if assigned to Class I milk under this order. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler:
- (i) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (c) and (h) of this section:
- (j) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Boston according to their zone locations; and
- (k) All other receipts, or available quantities of fluid milk products, from whatever source derived.

## § 904.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned

to Class I milk pursuant to § 904.25 shall be assigned to Class II milk.

### § 904.27 Emergency milk eligible for assignment to Class I milk.

Emergency milk received by a handler whose total use of Class II milk is in excess of 10 percent of the total volume of fluid milk products handled by him shall be assigned to Class II milk to the extent of such excess. For the purpose of this section, the handler's total Class II milk and total volume handled shall be the total of the respective quantities beginning on the first day on which emergency milk is received by the handler during the month and extending through the last such day in the month. If the quantity of emergency milk as to which specific Class II use is established is greater than the quantity otherwise assigned to Class II milk pursuant to this section, such greater quantity shall be assigned to Class II milk. Receipts of emergency milk not assigned to Class II milk shall be assigned to Class I milk.

#### REPORTS OF HANDLERS

### § 904.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the fluid milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;

(b) The receipts of fluid milk products and cream at each plant from any other handler, assigned to classes pursuant to §§ 904.25 to 904.27;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The respective quantities which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 904.15 to 904.17.

### § 904.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products and cream. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

### § 904.32 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also. state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

(c) Each handler who is not an association of producers shall, upon request from .any such association, promptly furnish it with information with respect to each of its producer members who starts, resumes, or stops deliveries to any of the handler's pool plants. Such information shall include the date on which the change took place, the producer member's post office address and farm location, and, if known, the plant to which he previously delivered, or the reason for his failure to continue deliveries. In lieu of his providing the information directly to the association, the handler may authorize the market administrator to furnish the association with such information, derived from the handler's reports and records.

### § 904.33 · Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butter-

fat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

### § 904.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

### § 904.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

(a) Verify the information contained in reports submitted in accordance with this part;

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

### § 904.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

#### § 904.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

### § 904.38 Outside cream purchases.

Each handler shall report, as requested by the market administrator, his purchases, if any, of bottling quality cream from nonpool handlers, showing the quantity and the source of each such purchase and the cost thereof at Boston.

### MINIMIN CLASS PRICES

### § 904.40 Class I price.

The Class I price per hundredweight at plants located in zone 21 shall be the New England basic Class I price per hundredweight determined for each month pursuant to § 904.48.

### § 904.41 Class II price.

The Class II price per hundredweight at plants located in zone 21 shall be determined for each month pursuant to this section.

(a) Subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream f.o.b. Boston, as reported by the United States Department of Agriculture for the month, divide the remainder by 33, multiply by 0.98, and multiply the result by 3.7.

(b) Multiply by 7.85 the simple average of the prices per pound of roller process and spray process nonfat dry milk for human consumption, in carlots, f.o.b. Chicago area manufacturing plants, as reported by the United States Department of Agriculture for the period from the 26th day of the preceding month through the 25th day of the month during which such milk is delivered.

(c) Add the results obtained in paragraphs (a) and (b) of this section, and from the sum subtract the amount shown below for the applicable month. Subject to paragraph (d) of this section, the result is the Class II price per hundredweight for milk received from producers at plants located in zone 21.

Month:	(cents)
January and February	67
March and April	79
May and June	
July	
August and September	
October, November, and December	r_ <b>_</b> 67

(d) For each month in which no cream price, as described in paragraph (a) of this section, is reported, and for each month in which the amount determined pursuant to this paragraph is greater than the amount computed pursuant to paragraph (c) of this section, the amount determined pursuant to this paragraph shall be the Class II price per hundredweight of milk received from producers at plants located in zone 21.

(1) Adjust the average price for milk for manufacturing purposes, f.o.b. plants United States, as reported on a preliminary basis by the United States Department of Agriculture for the month, by subtracting for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or adding for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator by multiplying by 0.125 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture.

(2) Adjust the result obtained in subparagraph (1) of this paragraph by the amount shown below for the applicable

mom.			
	Amount		Amount
Month:	(cents)	Month:	(cents)
January	+13	July	+08
February	+12	August _	+17
March	05	Septembe	r_ +14
April	09	October	+16
May	12	Novembe	r _ +17
June	11	December	r - +17

### § 904.42 Zone price differentials.

The prices determined pursuant to §§ 904.40, 904.41, and 904.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers.

(a) Each city plant shall be in the "City Plant" zone.

(b) The zone location of each country plant shall be based upon its highway mileage distance to Boston as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Boston and the named point on the map which is nearest to the plant, over roads des-

ignated thereon as paved, first-class, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through firstclass road as will result in the lowest highway mileage to Boston, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(c) The zone price differentials for each plant shall be those applicable to its zone location as shown in the following table:

DIFFERENTIALS FOR DETERMINATION OF ZONE PRICES

A	В	σ	D
Distance to Boston (miles)	Zone	Class I and blended price dif- ferentials (cents per hundred- weight)	Class II Price dif- ferentials (cents per hundred- weight)
Within 4041 to 6061 to 7071 to 8081 to 9091 to 100	City plant6	+54.0 +37.0 +16.8 +15.6 +14.4 +13.2	+5.8 +3.8 +3.7 +3.5 +3.2 +3.0
101 to 110 111 to 120 121 to 130 131 to 140 141 to 150	11 12 13 14 15	+12.0 +10.8 +9.6 +8.4 +7.2	+2.9 +2.6 +2.4 +2.1 +1.6
151 to 160 161 to 170 171 to 180 181 to 190 191 to 200	16 17 18 19 20	$\begin{array}{r} +4.8 \\ +3.6 \\ +2.4 \end{array}$	+1.3 +1.2 +0.6 +0.4 +0.1
201 to 210 211 to 220 221 to 230 231 to 240 241 to 250	21 22 23 24 25	-1.0 -2.0 -3.0	(1) -0.6 -0.7 -0.9 -0.9
251 to 260 261 to 270 271 to 280 281 to 290 291 to 300	26 27 28 29 30	-6.0 -7.0 -8.0	-1.2 -1.3 -1.5 -1.6 -1.8
301 to 310 311 to 320 321 to 330 331 to 340 341 to 350	31 32 33 34 35	-11, 0 -12, 0 -13, 0	-2.3 -2.4 -2.5 -2.8 -2.8
351 to 360 361 to 370 371 to 380 381 to 390 391 to 400	36 37 38 39 40	-16.0 -17.0	-3.0 -3.1 -3.3 -3.4 -3.5
401 to 410 411 to 420 421 to 430 431 to 440 441 to 450	4142434445	-21.0 -22.0 -23.0	-8. 5 -3. 5 -3. 5 -3. 5 -3. 5
451 and over	46 and over	(2)	-3. 5

1 No differential.

# § 904.43 Determination of zone locations of receipts from producers assigned to Class I milk.

For the purpose of determining the respective quantities of receipts from producers which are subject to the various zone price differentials, each pool

handler's receipts from producers assigned to Class I milk pursuant to § 904.25(f) shall be considered to have originated at sources in the sequence and to the extent set forth in this section:

(a) Receipts from producers at the handler's city plant;

(b) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of:

(1) As route disposition in Maine, New Hampshire, and Vermont; and

(2) To unregulated plants from which no fluid milk products were disposed of as Class I milk, either directly or indirectly, outside the States of Maine, New Hampshire, and Vermont.

(c) Remaining receipts from producers at the handler's country pool plants, receipts of bulk fluid milk products from other Federal order plants, and receipts of outside milk in the form of fluid milk products not assigned to Class I milk pursuant to § 904.25(j), all in the order of the nearness of the originating plants to Boston according to their zone locations. The quantity determined for the zone location of any of the handler's country pool plants shall be the lesser of its receipts from producers or its shipments of fluid milk products reduced by its shipments of fluid milk products to plants located in the States of Maine, New Hampshire, Vermont, or New York for which utilization as Class II milk is established. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered.

### § 904.44 Butter and cheese adjustment.

During the months of April, May, June, and July, in which the Class II price is computed pursuant to §904.41(c), the value of a pool handler's milk computed pursuant to §904.50 shall be reduced by an amount determined as follows:

(a) Subtract from the price computed pursuant to § 904.41(c), the price computed pursuant to § 904.41(d) and divide by 3.7. The result is the butter and cheese differential.

(b) Determine the pounds of butterfat in Class II milk received from producers which was processed into salted butter, Cheddar cheese, American Cheddar cheese, Colby cheese, washed curd cheese, or part skim Cheddar cheese at a plant of the first handler of such butterfat or at a plant of a second person to which such butterfat was moved.

(c) Subtract such portion of the quantity determined in paragraph (b) of this section as was made into salted butter and disposed of by the handler or such second person in a form other than salted butter.

(d) Multiply the remaining pounds of butterfat determined pursuant to paragraph (c) of this section by the butter and cheese differential determined pursuant to paragraph (a) of this section.

### § 904.45 Use of equivalent factors in formulas.

If for any reason a price, index, or wage rate specified by this part for use

<sup>&</sup>lt;sup>2</sup> Class I and blended price differentials applicable to plants located more than 450 miles from Boston shall be obtained by extending the table at the rate of one cent for each additional 10 miles except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

in computing class prices and for other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

### § 904.46 Announcement of class prices and differentials.

The market administrator shall make public announcements of class prices and differentials as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price and the butter and cheese differential on or before the 5th day after the end of each month.

### NEW ENGLAND BASIC PRICE FORMULA

### § 904.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

- (a) Compute the economic index as follows:
- (1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947–49 as the base period.
- (2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a "New England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisors to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.
- (3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates

reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the economic index.

- (b) Compute an economic index price as follows:
- (1) Multiply the economic index by \$.0567, expressing the result to the nearest mill;
- (2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201-210-mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation thereof, and then add \$.08, expressing the result to the nearest mill;
- (3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.
- (c) Compute a supply-demand adjustment factor as follows:
- (1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.
- (2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.
- (3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting percentages. The result shall be known as the percentage of base supply.

	Base
	Class I
Month: pe	ercentage
January	71.6
February	69.8
March	65.1
April	61.1
May	55.5
June	56.7
July	69.3
August	
September	75.8
October	76. 5
November	77.9
December	73.0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Supply-demand adjustment

Seasonal

Percentage of base supply: 1 factor	•
90.5-91.5	1.06
92.0-93.0	1.05
93.5-94.5	1.04
95.0-96.0	1.03
96.5-97.5	1.02
98.0-99.0	1.01
99.5-100.5	1.00
101.0-102.0	. 99
102.5-103.5	. 98
104.0-105.0	97
105.5-106.5	. 96
107.0-108.0	. 95
108.5-109.5	. 94

- <sup>1</sup>If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.
- (d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

adjust Month: fac	tment tor
January and February	
March	1.00
April	. 92
May and June	. 88
July	
August	
September	1.04
October, November, and December	1.08

(e) Multiply the economic index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

R	ange	New England basic Class I
At least—	But less than—	price
1 \$14. 86 5. 08 5. 30 5. 52 5. 74 5. 96 6. 18 6. 40 6. 62 6. 84	\$5. 08 5. 30 5. 52 5. 74 5. 96 6. 18 6. 40 6. 62 6. 84 1 7. 06	\$4. 97 5. 19 5. 41 5. 63 5. 85 6. 07 6. 29 6. 51 6. 73 6. 95

- If the result of the computation specified in this paragraph is less than \$4.86 or is \$7.06 or more, the New England basic Class I price shall be determined by extending the table at the indicated rate of extension.
- (f) Notwithstanding the provisions of the preceding paragraphs of this section, the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

### § 904.50 . Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

- (a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 904.25, at zone locations as determined pursuant to § 904.43, by the prices pursuant to §§ 904.40 and 904.42.
- (b) Multiply the quantities of milk received from producers at plants in each zone, less the quantities priced in each zone pursuant to paragraph (a) of this section, by the prices pursuant to \$\$ 904.41 and 904.42;
- (c) Add together the resulting value of each class; and
- (d) Adjust the value determined in paragraph (c) of this section as provided in § 904.44.

### § 904.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

- (a) Combine into one total the respective values of milk computed pursuant to \$904.50 and the payments required pursuant to \$904.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to \$\$904.61 (b) and 904.65 for the preceding month;
- (b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 904.61, 904.62, 904.65, and 904.67;
- (c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 904.64;
- (d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section: and
- (e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection

with the payments set forth in §§ 904.61 and 904.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at plants located in zone 21, shall be known as the basic blended price.

### § 904.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

- (a) Such of these computations as do not disclose information confidential pursuant to the Act;
- (b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 904.64; and
- (c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

#### PAYMENTS FOR MILK

### § 904.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall advance payment be at a rate less than the Class II price for such month.

#### § 904.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 904.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§ 904.63 and 904.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 904.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 904.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

### § 904.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 904.61(b) and 904.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior

month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 904.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

### § 904.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, an amount per hundredweight which shall be calculated by the market administrator as follows: Subtract 52.5 cents from the weighted average price per 40-quart can of 40 percent bottling quality cream. f.o.b. Boston, as reported by the United States Department of Agriculture for the period between the 16th day of the preceding month and the 15th day inclusive of the month during which such milk is delivered, and divide the remainder by 330. If the cream price described above is not reported as indicated the butterfat differential shall be determined by multiplying by 1.25 the average of the daily prices, using the midpoint of any range as one price, for Grade A (92-score) butter at wholesale in the New York market as reported for the period between the 16th day of the preceding month and the 15th day, inclusive, of the current month by the United States Department of Agriculture and dividing the result by 10.

### § 904.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 904.61(a) shall be subject to the differential set forth in Column C of the table in § 904.42 and to further differentials as follows:

- (a) With respect to milk delivered by a producer whose farm is located more than 40 miles from both the State House in Boston and the City Hall in Lawrence, but not more than 80 miles from the State House in Boston, there shall be added 23 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price.
- (b) With respect to milk delivered by a producer whose farm is located not more than 40 miles from the State House in Boston or not more than 40 miles from the City Hall in Lawrence, there shall be added 46 cents per hundred-weight, unless such addition gives a result greater than the Class I price pursuant to §§ 904.40 and 904.42 which is effective at the plant to which such

milk is delivered, in which event there shall be added an amount which will give as a result such price.

# § 904.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator, as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of outside milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as follows:

(1) On such receipts assigned pursuant to § 904.25 (i) or (j), at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the zone location of the unregulated plant. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered: and

(2) On quantities assigned pursuant to § 904.25(k) at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the handler's regulated plant nearest to Pacton

(b) Each handler, except a producerhandler under any Federal order, who operates an unregulated plant with route disposition in the marketing area shall make payment at the difference between the price pursuant to § 904.40 and the price pursuant to § 904.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order, except that the same receipts of priced milk shall not be used to offset route disposition in this marketing area and in any other Federal marketing area.

### § 904.66 Deductions from payments to producers.

(a) In making payments to producers as required by §§ 904.60 and 904.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

(b) Each association of producers may file with a handler who is not an association of producers, a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for which such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer listed authorizing the claimed deduction. Such deductions shall be made by the handler in accordance with the association's claim, and shall be paid by the handler to the association on or before the 20th day after the end of each month with an accompanying statement showing the pounds of milk delivered by each producer from whom the deduction was made.

### § 904.67 Adjustment of overdue accounts.

Any balance due, pursuant to §§ 904.61, 904.62, and 904.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 21st day of such month: Provided, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month.

### § 904.68 Statements to producers.

In making the payments to producers prescribed by § 904.61(a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer:

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 904.61 (a):

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under \$\frac{8}{2}\$ 904.66 and 904.70 together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

### MARKETING SERVICES

### § 904.70 Marketing service deductions.

In making payments to producers pursuant to § 904.61(a), each handler with respect to all milk received from each producer except himself and except any producer who is a member of an association of producers which the Secretary determines is performing the services set forth in this section, shall deduct 2 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month. pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

#### ADMINISTRATION EXPENSE

### § 904.72 Payments of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 3 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant.

#### **OBLIGATIONS**

### § 904.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this order for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation. unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month, during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act, a petition claiming such money.

#### MISCELLANEOUS PROVISIONS

### § 904.80 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 904.81.

#### § 904.81 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act. This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

### § 904.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

### § 904.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

### § 904.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

### Milk in Southeastern New England Area

1. Delete paragraph (b) of § 990.1 and substitute therefor the following:

- (b) "Southeastern New England marketing area", hereinafter referred to as the "marketing area", means all of the territory included within the boundary lines of the State of Rhode Island (excluding Block Island), the Massachusetts counties of Barnstable, Bristol, Dukes County and Plymouth (excluding the towns of Hingham and Hull); the towns of Bellingham, Foxborough, Franklin, Medway, Millis, Norfolk, Plainville, and Wrentham in Norfolk County, and the towns of Blackstone. Hopedale, Mendon, Milford, and Millville in Worcester County, together with all piers, docks and wharves connected therewith and craft moored thereat and including all territory within such boundaries occupied by Government (municipal, state and Federal) installations, institutions, and other establishments.
- 2. Delete paragraph (c) of § 990.1 and substitute therefor the following:
- (c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 990.21(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: Provided, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.
- 3. Delete paragraph (c) of § 990.2 and substitute therefor the following:
- (c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk.
- 4. Delete paragraph (d) of § 990.2 and substitute therefor the following:
- (d) "Dairy farmer for other markets" means any person described in subparagraphs (1), (2), and (3) of this paragraph:
- (1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate a regulated plant during the month and which milk is moved to another handler's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order;
- (2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as a receipt from a producer under the provisions of another Federal order;
- (3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which

- the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was considered as a receipt from a producer under another New England Federal order or of own production of a producer-handler under any New England Federal order;
- (4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.
- 5. Delete paragraph (e) of § 990.2 and substitute therefor the following:
- (e) "Producer" means any dairy farmer (except a dairy farmer for other markets, any person holding producerhandler status under any Federal order or a dairy farmer who is a producer under another Federal order with respect to milk diverted from a plant subject to such other order) whose milk is delivered from his farm to a pool plant or is diverted in accordance with subparagraphs (1) through (5) of this paragraph if the handler, in filing his monthly report pursuant to § 990.30 reports the mil: as receipts from a producer at such pool plant: Provided, That any dairy farmer whose milk is diverted on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any of his deliveries of milk during such month:
- (1) To the regulated plant of another handler;
- (2) To a regulated plant of the same handler in the same plant zone;
- (3) To an unregulated plant during any month of July through September on not more than 8 days (4 days in the case of every-other-day delivery) during such month;
- (4) To an unregulated plant during any month of October through March on not more than 12 days (6 days in the case of every-other-day delivery) during such month; or
- (5) To an unregulated plant during any month of April through June.
- 6. Delete paragraph (g) of § 990.2 and substitute therefor the following:
- (g) "Handler" means (1) any person who during the month operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.
- 7. Delete paragraph (i) of § 990.2 and substitute therefor the following:
- (i) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph, who is both a dairy farmer and a handler who processes milk from his own farm production, distributing all or a portion of such milk as Class I milk in the marketing area on routes: Provided, That the maintenance, care, and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a

greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area: (1) Whose own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or (2) whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not to exceed two percent of own farm production.

- 8. Delete paragraphs (j) and (k) of § 990.2 and substitute therefor a new paragraph (j) as follows:
- (j) "Dealer" means any person who during the month operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.
- 9. Delete paragraph (a) of § 990.3 and substitute therefor the following:
- (a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products: Provided, That this definition shall not include any separate building, premises, equipment or facilities used primarily to hold or store packaged fluid milk products in transit on routes.
- 10. Delete paragraph (b) of § 990.3 and substitute therefor the following:
- (b) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.
- 11. Delete paragraph (c) of § 990.3 and substitute therefor the following:
  - (c) "Pool plant" means:
- (1) Any receiving plant (except the plant of a producer-handler under any Federal order) from which at least 10 percent of its total receipts of milk directly from dairy farmers is disposed of during the month within the marketing area on routes and not less than 50 percent of its total receipts of fluid milk products is disposed of during the month as Class I milk, unless the market administrator determines that such plant disposed of a greater proportion of its Class I milk in another Federal order marketing area on routes than was so disposed of in this marketing area.

(2) Any receiving plant located in the marketing area and operated by an association of producers in any month in which the quantity of Class I milk disposed of on routes from such plant does not exceed two percent of its total receipts of fluid milk products, or

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(3) Except as provided in subdivisions (i) to (iv) of this subparagraph any receiving plant from which not less than 30 percent of its receipts of milk directly from dairy farmers is shipped during the month as fluid milk products to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a regulated plant other than a pool plant.

(i) During any of the months of July through November any plant qualified as a pool plant pursuant to this subparagraph and also meeting the shipping requirements for pooling under another Federal order shall be exempt from the provisions of this part (except as provided in §§ 990.30(b), 990.31(a) and (e), 990.32 and 990.33, if the market administrator determines that a greater proportion of fluid milk products was shipped during such month to regulated plants under such other order, unless such greater shipments were made to Boston regulated plants and the plant operator elects nonpool status under the Boston order during such month.

(ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held pooling status under one or another of the New England Federal orders in each month of such period but had the greater proportion of its producer receipts pooled under this part during such period shall be a pool plant in the immediately succeeding months of December through June, unless the operator thereof gives written notice to the market administrator on or before the 16th day of any such month that the plant is a nonpool plant for such month: Provided, That any such plant which was a nonpool plant in any of the months of July through November and for which nonpool status is requested for any month of December through June or any plant which was a pool plant in each of such months of July through November but which is operated as a nonpool plant under all of the New England Federal orders in any of the months of December through June shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph.

(iii) Any plant which was not a pool plant under this part during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month, except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June, it shall be a pool plant in any subsequent months of such period only if it meets the shipping requirements pursuant to this subparagraph.

- (iv) Any plant which was a nonpool plant under all of the New England orders during any of the months of July through November shall not be a pool plant in any of the months of December through June in which it is operated by the same handler, an affiliate or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler plant.
- 12. Add a new paragraph (d) at the end of § 990.3 to read as follows:
- (d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater proportion of its Class I milk in another marketing area on routes.
- 13. Delete from paragraph (a) of § 990.4 the phrase "at a plant".
- 14. Delete paragraph (f) of § 990.4 and substitute therefor the following:
- (f) "Producer milk" means only skim milk and butterfat contained in milk (1) received at a pool plant directly from producers, or (2) diverted from a pool plant in accordance with the conditions set forth in § 990.2(e): Provided, That in instances where it can be established to the satisfaction of the market administrator that milk was transferred, by a handler or his agent, from the producer's farm tank into a tank truck during the month, and such milk was not delivered to any plant because of loss or destruction by accident or faulty equipment en route to the plant, such milk shall be accounted for as a receipt of producer milk at the pool plant of the handler where milk from the same farm was received as producer milk during the month.
- 15. Delete the language of § 990.4(g) following the semicolon at the end of subparagraph (1) and substitute therefor the following:
- (2) Received at a pool plant in the form of packaged fluid milk products from a nonpool plant in return for which an equivalent quantity of skim milk and butterfat in the form of bulk milk is moved from a pool plant for processing and packaging during the same month, if such receipt and return occurs during an interval in which the facilities of the pool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control; or
- (3) In milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.
- 16. Add a new paragraph (i) at the end of § 990.4 to read as follows:

- (i) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.
- 17. Delete subparagraph (3) of § 990.21 (b) and substitute therefor the following:
- (3) Contained in fluid milk products dumped if the conditions of § 990.31(e) are met by the handler;
- 18. Delete the word "and" and immediately preceding subparagraph (5) of § 990.21(b) and add a new subparagraph (6) immediately after subparagraph (5) of § 990.21(b) as follows: "and (6) contained in fluid milk products lost under extraordinary circumstances completely beyond the control of the handler, if such loss is substantiated by records satisfactory to the market administrator."
- 19. Delete § 990.22(b) and substitute therefor the following:
- (b) As Class I milk if moved to the plant of a producer-handler under this or any other Federal order.
- 20. Delete § 990.24 and substitute therefor the following:

### § 990.24 Assignment of skim milk and butterfat classified.

- (a) For each month, the market administrator shall correct for mathematical and other obvious errors, the reports submitted by each handler pursuant to § 990.30 and shall compute the total pounds of skim milk and butterfat in each class for such handler: Provided, That when nonfat milk solids derived from nonfat dry milk, condensed skim milk, or any other product condensed from milk or skim milk, are utilized by such handler, the total pounds of skim milk computed shall reflect a volume equivalent to the skim milk used to produce such nonfat milk solids.
- (b) Skim milk shall be assigned in the following manner:
- (1) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk received during the month as exempt milk.
- (2) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk received during the month in packaged fluid milk products from fully regulated plants under the provisions of another Federal order.
- (3) Subtract from the pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.
- (4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk received during the month in other source milk in the form of fluid milk products other than from fully regulated plants under the provisions of another Federal order.
- (5) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in inventory of fluid milk products on hand at the end of the month.
- (6)(i) During the months of July through September, subtract from the

- remaining pounds of skim milk in Class II milk a quantity equal to such remainder or to 15 percent of the pounds of skim milk in receipts of producer milk, whichever is less.
- (ii) During the months of October through June, subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or to 5 percent of the pounds of skim milk in receipts of producer milk, whichever is less.
- (7) Subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order, whichever is less.
- (8) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(9) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (5) of this paragraph.

- (10) Subtract from the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order and not assigned pursuant to subparagraph (7) of this paragraph.
- (11) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (6) of this paragraph.
- (12) Assign to the remaining pounds of skim milk in each class, beginning with Class I milk, the pounds of skim milk in:
- (i) Receipts of fluid milk products from pool plants of other handlers not subject to a zone price differential;
- (ii) Receipts of producer milk at the handler's pool plants not subject to a zone price differential;
- (iii) Receipts of producer milk at the handler's pool plants to which a zone price differential is applicable equal to the pounds of skim milk disposed of in fluid milk products directly from these plants as Class I milk outside the marketing area:
- (iv) Receipts of fluid milk products from pool plants of other handlers not assigned pursuant to subdivision (i) of this subparagraph, in the order of the nearness of the plants to Providence according to their zone locations; and
- (v) Receipts of producer milk at the handler's pool plants, not assigned pursuant to subdivisions (ii) and (iii) of this subparagraph, in the order of the nearness of the plants to Providence according to their zone locations.
- (13) Any remaining pounds of skim milk in each class not assigned shall be known as "overage".
- (c) Butterfat shall be allocated in accordance with the same procedure prescribed for skim milk in paragraph (b) of this section.

- (d) Add the pounds of skim milk and butterfat in each class, pursuant to paragraphs (b) and (c) of this section.
  - 21. Delete the proviso in § 990.30.
- 22. Delete paragraph (e) of § 990.31 and substitute therefor the following:
- (e) Each regulated handler dumping pursuant to § 990.21(b) (3) shall give the market administrator such advance notice of intention to dump as the market administrator may require. For each dumping not witnessed by the market administrator or his agent each handler shall mail or deliver to the market administrator within 48 hours following such dumping a report in writing as prescribed by the market administrator. showing the date on which the dumping was made and the quantity dumped, such report to be signed by both the person who dumped the product and the person authorized to sign reports for the handler made pursuant to § 990.30 (if the latter person is not available to sign the report within the 48-hour period, the signature of the plant manager or superintendent shall be made on the report).
- 23. Delete paragraph (a) of § 990.40 and substitute therefor the following:
- (a) Class I price. The Class I price shall be the New England basic Class I price per hundredweight determined pursuant to § 990.41 plus 54 cents.
- 24. In § 990.45 change the reference "§ 990.20" to "§ 990.22".
  25. In paragraph (a) of § 990.46
- 25. In paragraph (a) of § 990.46 change the reference "§ 990.24(b) (1)" to "§ 990.24 (b) (3) or (c)".
- 26. Delete paragraph (b) of § 990.46 and substitute therefor the following:
- (b) Each pool handler who received other source milk which is allocated to Class I pursuant to § 990.24(b) (4) or (c) shall make payment on the quantity so allocated at the difference between the Class I and Class II price computed pursuant to § 990.40 for the zone location of the nonpool plant from which such milk was received: *Provided*, That for the purposes of this paragraph, other source milk received from dairy farmers for other markets shall be considered as received from the nonpool plant to which they ordinarily delivered.
- 27. In paragraph (c) of § 990.46 change the reference "§ 990.24(b) (4)" to "§ 990.24(b) (10)".
- 28. Delete in paragraph (d) of § 990.46 the parenthetical phrase "(except a buyer-handler)" and substitute therefor the phrase "operating an unregulated plant".
- 29. Delete the period at the end of paragraph (d) of § 990.46 and add the following: ": *Provided*, That the same receipts of priced milk shall not be used to offset Class I sales in both this market and any other Federal order market."
- 30. Delete in paragraph (e) of § 990.46 the word "buyer-handler" and substitute therefor the words "handler operating a regulated plant other than a pool plant".
- 31. In paragraph (c) of § 990.50 change the reference "§ 990.24(b) (10)" to "§990.24(b) (13)."
- 32. Delete paragraph (d) of § 990.50 and substitute therefor the following:

- (d) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat, respectively, was allocated to Class II in the preceding month by the hundredweight of skim milk and butterfat, respectively, subtracted from Class I milk pursuant to § 990.24 (b) (8) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat, respectively, allocated to Class II milk pursuant to § 990.24.(b) (10) and (c) during the preceding month and classified and priced as Class I under the provisions of another Federal order.
- 33. Delete the proviso as it appears in subparagraph (1) of § 990.60(a).
- 34. Delete subparagraph (2) of § 990.60 (a) and substitute therefor the following:
- (2) On or before the 20th day after the end of each month, for the quantity of milk received during the month, at not less than the basic blended price per hundredweight computed pursuant to § 990.51 subject to the differentials provided in §§ 990.61, 990.62, and 990.63 less payments made to such producer pursuant to subparagraph (1) of this paragraph: Provided, That with respect to each deduction for hauling or for any other purpose made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized and properly chargeable to the producer: And provided further, That if by such date such handler has not received full payment from the market administrator pursuant to § 990.66 for such milk, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date next following for making payment pursuant to this paragraph after receipt of the balance due from the market administrator.
- 35. In § 990.64 insert after the phrase "all payments made by handlers" the words "of monies due producers".
- 36. Delete the words "following that" as they appear near the end of paragraph (c) of § 990.67.
- 37. Delete § 990.68 and substitute therefor the following:

### § 990.68 Overdue accounts.

Any unpaid obligation of a handler or of the market administrator pursuant to § 990.46; and § 990.65 to § 990.70 shall be increased one-half of one percent on the 19th day of the month and on the same day of each month thereafter until such obligation is paid.

- 38. Delete the words "market administrator" as they first appear in paragraph (a) of § 990.69 and substitute therefor the word "Secretary".
- 39. Delete the word "20th" as it appears in paragraph (a) of § 990.69 and substitute therefor the word "16th".
- 40. Delete the phrase "as determined by the Secretary, which" as it appears in paragraph (b) of § 990.69 and substitute

therefor the phrase "which the Secretary determines".

- 41. Delete the word "20th" as it appears in paragraph (b) of § 990.69 and substitute therefor the word "18th".
- 42. Delete the word "20th" as it appears in § 990.70 and substitute therefor the word "16th".
- 43. Delete paragraphs (a), (b) and (c) of § 990.70 and substitute therefor the following:
- (a) Each pool handler shall make such payment with respect to all: (1) Receipts of producer milk including such handler's own production; (2) receipts of exempt milk; and (3) receipts of other source milk classified as Class I except receipts from fully regulated plants under another Federal order.
- (b) Each handler operating a regulated plant other than a pool plant shall make such payment with respect to receipts of other source milk in his plant which are classified as Class I except receipts from fully regulated plants under another Federal order.
- (c) Except as provided in paragraph (b) of this section each nonpool handler shall make such payment with respect to any disposition of Class I milk in the marketing area on routes in excess of his receipts of pool milk or milk from fully regulated plants under another Federal order and classified and priced as Class I.

Milk in Springfield Marketing Area

### DEFINITIONS

### § 996.1 General definitions.

- (a) "Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.
- (b) "Springfield, Massachusetts, marketing area," also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Agawam.
Chicopee.
Easthampton.
East Longmeadow.
Holyoke.
Longmeadow.
Ludlow.

Northampton. South Hadley. Springfield. Westfield. West Springfield. Wilbraham.

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I pursuant to § 996.15(a) other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: Provided, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

### § 996.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association or any other business unit;

- (b) "Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and perform the duties of the Secretary of Agriculture;
- (c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk:
- (d) "Dairy farmer for other markets" means any person described in subparagraphs (1), (2) and (3) of this paragraph:
- (1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.
- (2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.
- (3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received nonpool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was considered as receipts from a producer under another New England Federal order or of own production of a producer-handler under any New England Federal order.
- (4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by the handler or dealer.
- are controlled by the handler or dealer.

  (e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.
- (f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.
- (g) "Dealer" means any person who during the month operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(h) "Handler" means: (1) Any person who, during the month, operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any person

- who operates a pool plant.

  (j) "Producer-handler" means any person meeting the conditions of subparagraph (1) or (2) of this paragraph who is both a dairy farmer and a handler, processing milk from his own production and distributing all or a portion of such milk in the marketing area on routes: Provided, That the maintenance, care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a greater proportion of fluid milk products are distributed in this marketing area on routes than in any other Federal order marketing area.
- (1) Whose own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month, and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or
  (2) Whose only source of supply for
- fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not in excess of two percent of own farm production.

### § 996.3 Definitions of plants.

- (a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products. except that this definition shall not include any separate building, premise, equipment or facility used primarily to hold or store packaged fluid milk products in transit on routes.
- (b) "City plant" means any plant which is located within 10 miles of the marketing area.
- (c) "Country plant" means any plant which is located beyond 10 miles of the marketing area.
- (d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.
- (e) "Pool plant" means any receiving plant which meets the applicable condi-

tions and requirements for pool plant status contained in §§ 996.20 and 996.21, except a pool plant under another Federal order or the plant of a producerhandler under any Federal order.

(f) "Distributing plant" means any plant from which fluid milk products processed and packaged at the plant are distributed in the marketing area or routes.

- (g) "Regulated plant" means: (1) Any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipt of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater percentage of its Class I milk in another Federal order marketing area or routes.
- (h) "Supply plant" means any receiving plant, other than a regulated distributing plant, from which fluid milk products are shipped in bulk to a distributing plant.
- (i) "Other Federal order plant" means a pool plant under another Federal order, or any plant which is not a regulated plant under the provisions of this part but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

### § 996.4 Definitions of milk and milk products.

- (a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half"
- (b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk. and concentrated milk, either individually or collectively.
- (c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.
- (d) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of one percent of butterfat.
- (e) "Half and half" means any fluid milk product, except concentrated milk. the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.
- (f) "Concentrated milk" means the concentrated, unsterilized milk product. resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consump-
- (g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50

percent of the quantity, by weight, of "half and half".

- milk" means milk (h) "Producer which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but. which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's form tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.
  - (i) "Outside milk" means:
- (1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk.
- (2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month.
  - (j) "Exempt milk" means:
- (1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the operator of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or similar extraordinary circumstances completely beyond the dealer's control; or
- (2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control: or
- (3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.
- (k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted.

(1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler either caused milk to be moved from the farm as producer milk, or caused milk to be moved as produced milk from the farm by tank truck; or

(2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

### MARKET ADMINISTRATOR

### § 996.10 Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

### § 996.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and
- (d) To recommend amendments to the Secretary.

### § 996.12 Duties of market administrator.

The market administrator, in addition to the duties described in other sections of this part, shall:

(a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;

(c) Pay, out of the funds provided by § 996.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

(d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate;

(e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant, as reported by the handler, prompt written notice of his actual or potential loss of producer status for

the first month in which the plant's status has changed or is changing to that of a nonpool plant.

### CLASSIFICATION

### § 996.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 996.16 and 996.17, the classes of utilization shall be as follows:

(a) Class I milk shall be:

 All milk and milk products sold, distributed, or disposed of as or in milk;

(2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk;

(3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and

(4) All milk and milk products the utilization of which is not established as Class II milk.

(b) Class II milk shall be all milk and milk products the utilization of which is established:

(1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and

(2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

# § 996.16 Classification of fluid milk products moved to other plants.

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

(a) As Class I milk if moved as packaged fluid milk products to any other plant;

(b) As Class I milk if moved to the plant of a producer-handler under any Federal order;

(c) In the class to which it is assigned under §§ 996.25 and 996.26 if moved as bulk fluid milk products to any other handler's regulated plant;

(d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under another New England Federal order or the New York-New Jersey order;

(e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which it utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England States and New York State.

### § 996.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

### DETERMINATION OF POOL PLANT STATUS

### § 996.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section.

(a) It is a distributing plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and Class I route disposition in the marketing area of not less than 10 percent of its receipts from dairy farmers, and such route disposition in the marketing area exceeds its Class I route disposition in any other New England Federal marketing area.

(b) It is a plant located in the marketing area which is operated by an association of producers and the Class I route disposition from the plant does not exceed 2 percent of the total receipts of fluid milk products at the plant.

(c) It is a supply plant from which at least 30 percent of its total receipts of milk from dairy farmers is shipped as bulk fluid milk products to regulated distributing plants.

# § 996.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if in each of the preceding months of July through November it was a pool plant or would have been a pool plant had it not been a pool plant under another New England Federal order, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this part;

(2) The plant is designated as a non-pool plant pursuant to paragraph (e) of this section: or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if it was a pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this part than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.

- (c) Any supply plant, except a plant which has automatic pool plant status for such month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it meets the conditions and requirements for pool plant status under another New England Federal order and ships a greater quantity of bulk fluid milk products to regulated distributing plants under that order than it ships to regulated distributing plants under this part. However, no plant shall be barred from pool plant status under this paragraph for any month in which the greater quantity of such shipments is made to regulated distributing plants under the Boston order but the plant is designated as a nonpool plant under that order at the handler's request.
- . (d) Any supply plant shall be a non-pool plant in each of the months of December through June if it was a non-pool receiving plant under each of the New England Federal orders during any of the preceding months of July through Novemebr in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Federal order.
- (e) A supply plant shall be a nonpool plant in any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

ASSIGNMENT OF RECEIPTS TO CLASSES

### § 996.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk:

- (b) Receipts from other Federal order plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;
- (c) Receipts from other handlers' regulated plants of packaged fluid milk products;
- (d) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;
- (e) Receipts from other handlers' regulated city plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers:
- (f) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;
- (g) Receipts from producers at the handler's city plant;
- (h) Receipts from other handlers; regulated country plants of bulk fluid milk products for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Springfield according to their zone locations;

- (i) Receipts from producers at the handler's country plants not assigned pursuant to paragraph (f) of this section, in the order of the nearness of the plants to Springfield according to their zone locations;
- (j) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (e) and (h) of this section, in the order of the nearness of the originating plants to Springfield according to their zone locations:
- (k) Receipts from other Federal order plants of bulk fluid milk products not assigned to Class I milk under paragraph (d) of this section but subject to classification and pricing as Class I milk under the other Federal order if assigned to Class I milk under this part. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the orginating markets, except that if the handler has route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of route disposition in such market by the handler:
- (1) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (b), (d), and (k) of this section;
- (m) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Springfield according to their zone locations; and
- (n) All other receipts, or available quantities of fluid milk products, from whatever source derived.

### § 996.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned to Class I milk pursuant to § 996.25 shall be assigned to Class II milk.

### REPORTS OF HANDLERS

### § 996.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month, report to the market administrator in the detail and form prescribed by the market administrator, as follows:

- (a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production;
- (b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to § 996.25 and 996.26;
- (c) The receipts of outside milk and exempt milk at each plant; and
- (d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to \$\$ 996.15 through 996.17.

### § 996.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

### § 996.32 Reports regarding individual producers.

- (a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries.
- (b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

### § 996.33 Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

- (a) The daily and total pounds of milk delivered with the average butterfat test thereof; and
- (b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

### § 996.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

### § 996.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business, to:

- (a) Verify the information contained in reports submitted in accordance with this part;
- (b) Weigh, sample, and test milk and milk products; and
- (c) Make such examination of records, operations, equipment, and facilities as the market administrator deems neces-

sary for the purpose specified in this map which is nearest to the plant, over section.

map which is nearest to the plant, over roads designated thereon as paved, first-

### § 996.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

### § 996.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

### MINIMUM CLASS PRICES

### § 996.40 Class I price at city plants,

The Class I price per hundredweight at city plants shall be the New England basic Class I price per hundredweight determined for each month pursuant to \$996.48 plus 54 cents.

### § 996.41 Class II price at city plants.

The Class II price per hundredweight at city plants shall be the Class II price determined for each month pursuant to \$904.41 of the Boston order plus 5.8 cents.

#### § 996.42 Country plant zone price differentials.

In the case of receipts at country plants, the prices determined pursuant to \$\frac{8}{5}\$ 996.40, 996.41, and 996.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers.

(a) The zone location of each country plant shall be based upon its highway mileage distance to Springfield as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Springfield and the named point on the

roads designated thereon as paved, firstclass, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through firstclass road as will result in the lowest highway mileage to Springfield, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(b) The zone price differential for each country plant shall be those applicable to its zone location as shown in the following table.

COUNTRY PLANT ZONE PRICE DIFFERENTIALS

Distance to   Springfield   Zone	A	В	o	D
$ \begin{array}{cccccccccccccccccccccccccccccccccccc$	Springfield	Zone	blended price dif- ferentials (cents per hundred-	price dif- ferentials (cents per hundred-
241 to 250.     25.     -58.0     -7.       251 to 260.     26.     -59.0     -8.       261 to 270.     27.     -60.0     -8.       271 to 280.     28.     -61.0     -8.       281 to 290.     29.     -62.0     -8.       291 to 300.     30.     -63.0     -8.	41 to 50 51 to 60 61 to 70 71 to 80 81 to 90 91 to 100 101 to 110 111 to 120 121 to 130 131 to 140 141 to 150 151 to 160 161 to 170 171 to 188 181 to 190 191 to 200 201 to 210 221 to 230 231 to 240 241 to 250 251 to 260 281 to 270 281 to 280 281 to 270 281 to 280 281 to 270 281 to 280 281 to 280 281 to 270 281 to 280 281 to 280 281 to 290 281 to 280 281 to 280 281 to 280	5	-34.8 -36.02 -38.4 -40.8 -40.8 -43.2 -44.6 -46.8 -48.0 -48.0 -49.2 -50.4 -50.0 -50.0 -50.0 -50.0 -60.0	-2.0 -3.0 -3.0 -3.0 -3.0 -4.5 -4.5 -4.5 -6.0 -6.0 -7.0 -7.0 -7.0 -8.0 -8.0 -8.0 -8.0 -8.0 -8.0 -8.0 -8

<sup>1</sup> Class I and blended price differentials applicable to plants located more than 300 miles from Springfield shall be obtained by extending the table at the rate of one cent for each additional 10 miles, except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

### § 996.44 Use of equivalent factors in

If for any reason a price, index, or wage rate specified by this part for use in computing class prices and for other purposes is not reported or published in the manner described in this order, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

### § 996.45 Announcement of class prices.

The market administrator shall make public announcements of the class prices as follows:

(a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he

shall announce the Class I price on the next succeeding work day.

(b) He shall announce the Class II price on or before the 5th day after the end of each month.

NEW ENGLAND BASIC PRICE FORMULA

# § 996.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

(a) Compute the economic index as follows:

(1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor with the years 1947-49 as the base period.

(2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a "New England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisers to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.

(3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates reported for the New England region by the United States Department of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

(4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grain-labor cost index determined pursuant to this paragraph. The result shall be known as the economic index.

- (b) Compute an economic index price as follows:
- (1) Multiply the economic index by \$.0567, expressing the result to the nearest mill:
- (2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201-210-mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonable adjustment factor which entered into the computation thereof, and then add \$.08, expressing the result to the nearest mill;
- (3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.
- (c) Compute a supply-demand adjustment factor as follows:
- (1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.
- (2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.
- (3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting percentages. The result shall be known as the percentage of base supply.

В	ase
	188 I
Month: perce	ntage
January	71.6
February	69.8
March	65. 1
April	61. 1
May	55. 5
June	56.7
July	69. 3
August	74. 7
September	75. 8
October	76. 5
November	77.9
December	73. 0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

Supply-demandadjustment Percentage of base supply: 1 factor 90.5-91.5\_\_\_\_\_\_ 92.0-93.0\_\_\_\_\_ 1.05 93.5-94.5\_\_\_\_\_ 95.0-96.0\_\_\_\_\_ 1.02 96.5-97.5\_\_\_\_\_ 98.0-99.0\_\_\_\_\_ 99.5-100.5\_\_\_\_\_ 1.01 1.00 101.0-102.0\_\_\_\_\_ 102.5-103.5 104.0-105.0\_\_\_\_\_ 105.5-106.5\_\_\_\_\_\_ 107.0-108.0\_\_\_\_\_ .96

1 If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.

108.5-109.5

.95

.94

(d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Seas	onai
adjus	tment
	ctor
January and February	
March	1.00
April	. 92
May and June	. 88
July	. 96
August	1.00
September	1. 04
October, November and December	1.08

(e) Multiply the Economic Index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range		New England basic Class I	
At least—	But less than—	price	
1 \$4. 86 5. 08 5. 30 5. 52 5. 74 5. 96 6. 18 6. 40 6. 62 6. 84	\$5. 08 5. 30 6. 52 5. 74 5. 96 6. 18 6. 40 6. 62 6. 84	\$4. 97 5. 19 5. 41 5. 63 5. 85 6. 07 6. 29 6. 51 6. 73 0. 95	

<sup>1</sup>If the result of the computation specified in this paragraph is less than \$4.86 or is \$7.06 or more, the New England basic Class I price shall be determined by ex-tending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section. the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

BLENDED PRICES TO PRODUCERS

### § 996.50 Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

- (a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 996.25 by the applicable prices pursuant to §§ 996.40 and 996.42:
- (b) Multiply the quantities of milk received from producers assigned to Class II milk pursuant to § 996.26 by the applicable prices pursuant to §§ 996.41 and 996.42; and
- (c) Add together the resulting value of each class.

### § 996.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

(a) Combine into one total the respective net values of milk computed pursuant to § 996.50 and the payments required pursuant to § 996.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month, the report for such month and the payments required pursuant to §§ 996.61(b) and 996.65 for the preceding month;

(b) Add the amount of unreserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 996.61, 996.62, 996.65, and 996.67;

(c) Deduct the amount of the plus differentials, and add the amount of the minus differentials, which are applicable pursuant to § 996.64;

(d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and

(e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 996.61 and 996.62. This result, which is the minimum blended price for milk containing 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

### § 996.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

- (a) Such of these computations as do not disclose information confidential pursuant to the Act:
- (b) The zone blended prices per hundredweight resulting from adjustment of the basic blended price by the differentials pursuant to § 996.64; and
- (c) The names of the pool handlers. designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

#### PAYMENTS FOR MILK

### § 996.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month.

### § 996.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 996.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the differentials provided in §§996.63 and 996.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 996.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 996.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

### § 996.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 996.61(b) and 996.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 996.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

### § 996.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, the amount per hundredweight determined for the

corresponding month pursuant to \$ 904.63 of this chapter.

### § 996.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 996.61(a) shall be subject to the differentials set forth in Column C of the table in § 996.42 and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in any of the following cities or towns, there shall be added 23 cents per hundred-weight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price:

#### MASSACHUSETTS

Becket. Florida. Hinsdale. Otis. Peru Sandisfield. Savoy. Washington. Windsor.

### New Hampshire

Chesterfield.

Westmoreland.

#### VERMONT

Brattleboro.
Dover.
Dummerston.
Marlboro.

Newfane. Putney. Wilmington.

(b) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, or Worcester Counties in Massachusetts, or in any of the following cities or towns, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 996.40 and 996.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give as a result such price:

### CONNECTICUT

Ellington. Enfield. Granby. Somers. Stafford. Suffield.

# New Hampshire Winchester.

Hinsdale.

VERMONT

Guilford. Halifax. Readsboro. Vernon. Whitingham.

# § 996.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of oustide milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as follows:

(1) On such receipts assigned pursuant to § 996.25 (1) or (m), at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the zone location of the unregulated plant. Receipts from each

to dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered; and

(2) On quantities assigned pursuant to § 996.25(n) at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the handler's regulated plant nearest to Springfield.

(b) Each handler, except a producerhandler under any Federal order, who operates an unregulated plant with route disposition in the marketing area shall make payment at the difference between the price pursuant to § 996.40 and the price pursuant to § 996.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order, except that the same receipts of priced milk shall not be used to offset route disposition in this marketing area and in any other Federal marketing area.

### § 996.66 Deductions from payments to producers.

In making payments to producers as required by §§ 996.60 and 996.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

### § 996.67 Adjustment of overdue accounts.

Any balance due, pursuant to §§ 996.61, 996.62, and 996.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of 1 percent effective the 21st day of such month: Provided, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month.

### § 996.68 Statements to producers.

In making the payments to producers prescribed by § 996.61(a), each pool handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer:

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 996.61 (a):

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 996.66, 996.70, and 996.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

### MARKETING SERVICES

#### § 996.70 Marketing service deduction; nonmembers of an association of producers.

In making payments to producers pursuant to § 996.61(a), each handler shall. with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 996.71, deduct 3 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. Such moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

#### § 996.71 Marketing service deduction; members of an association of producers.

In the case of producers who are members of an association of producers which the Secretary determines is actually performing the services set forth in § 996.70, each handler shall, in lieu of the deductions specified in § 996.70, make such deductions from payments made pursuant to § 996.61(a) as may be authorized by such producers and pay, on or before the 20th day after the end of each month, such deductions to such associations, accompanied by a statement showing the pounds of milk delivered by each producer from whom the deduction was made.

### ADMINISTRATION EXPENSE

# § 996.72 Payment of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant.

### OBLIGATIONS

### § 996.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless

within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain but need not be limited to the following information:

(1) The amount of the obligation;(2) The month(s) during which the

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part. to make available to the market administrator or his representatives all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed. or two year after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the Act, a petition claiming such money.

### MISCELLANEOUS PROVISIONS

### § 996.80 Effective time.

The provisions of this part, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 996.81.

### § 996.81 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall, in

any event, terminate whenever the provisions of the Act authorizing it cease to be in effect.

### § 996.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such further acts shall be performed notwithstanding such suspension or termination.

# § 996.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part, the market administrator, or such person as the Secretary may designate, shall, if so directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected, pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

### § 996.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Milk in Worcester, Mass., Marketing
Area

### DEFINITIONS

### § 999.1 General definitions.

(a) "Act" means Public Act No. 10, 73d Congress, as amended, and reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended.

(b) "Worcester, Massachusetts, marketing area", also referred to as the "marketing area", means the territory included within the boundary lines of the following Massachusetts cities and towns:

Oxford. Auburn. Boylston. Paxton. Princeton. Charlton. Clinton. Rutland. Worcester. Dudley. Fitchburg. Shrewsbury. Gardner. Southbridge. Grafton. Spencer. Sterling. Holden. Lancaster. Sutton. Leicester. Upton. Leominster. Webster. Westborough. Lunenburg. West Boylston. Millbury. Northborough. Westminster.

(c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I pursuant to § 999.15(a) other than in bulk to a plant or in packaged form to a plant

which packages fluid milk products for Class I disposition: *Provided*, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.

#### § 999.2 Definitions of persons.

(a) "Person" means any individual, partnership, corporation, association or any other business unit:

any other business unit;
(b) "Secretary" means the Secretary
of Agriculture of the United States or
any officer or employee of the United
States authorized to exercise the powers
and perform the duties of the Secretary
of Agriculture:

(c) "Dairy farmer" means any person who produces milk which is moved from his farm to a plant other than as packaged milk;

(d) "Dairy farmer for other markets" means any person described in subparagraph (1), (2) or (3) of this paragraph:

(1) Any dairy farmer with respect to milk which is purchased from him by a dealer who does not operate any regulated plant during the month and which milk is moved to another dealer's regulated plant directly from the dairy farmer's farm, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(2) Any dairy farmer with respect to milk which is purchased from him by a handler and moved to a regulated plant, if that handler caused milk from the same farm to be moved as nonpool milk to any plant during the same month, except that the term shall not apply to any dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(3) Any dairy farmer whose milk is received by a handler at a regulated plant during any of the months of December through June from a farm from which the handler received non-pool milk during any of the preceding months of July through November, except that the term shall not apply if all such nonpool milk was considered as receipts from a producer under another New England Federal order or of own

(4) As used in this paragraph, the terms "handler" and "dealer" include affiliates of, and persons who control or are controlled by, the handler or dealer.

(e) "Froducer" means any dairy

production of a producer-handler under

any New England Federal order.

(e) "Producer" means any dairy farmer whose milk is moved from his farm to a pool plant, or to any other plant as diverted milk; except that the term shall not include any person who is a producer-handler under this or any other Federal order, a dairy farmer for other markets, nor a dairy farmer with respect to milk which is considered as receipts from a producer under the provisions of another Federal order.

(f) "Association of producers" means any cooperative marketing association which the Secretary determines to be qualified pursuant to the provisions of the act of Congress of February 18, 1922, known as the "Capper-Volstead Act," and to be engaged in making collective sales or marketing of milk or its products for the producers thereof.

(g) "Dealer" means any person, who during the month operates a plant at which he engages in the business of receiving fluid milk products for resale or manufacture into milk products, whether or not he disposes of any fluid milk products in the marketing area.

(h) "Handler" means: (1) Any person who, during the month, operates a pool plant or any other plant from which fluid milk products are disposed of, directly or indirectly, in the marketing area, or (2) any person in his capacity as a subdealer, vendor, or peddler selling fluid milk products on routes from such plants.

(i) "Pool handler" means any handler who operates a pool plant:

who operates a pool plant.

(j) "Producer-handler" person meeting the conditions of subparagraph (1) or (2) of this paragraph who is both a dairy farmer and a handler, processing milk from his own production and distributing all or a portion of such milk in the marketing area on routes: Provided, That the maintenance. care and management of the dairy herd and other resources and facilities necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and risk of such person and a greater proportion of fluid milk products are distributed in this marketing area or routes. than in any other Federal order marketing area:

(1) Whose own farm production or Class I sales, whichever is less, does not exceed 2,150 pounds on a daily average during the month and whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders, or

(2) Whose only source of supply for fluid milk products is milk of his own farm production and fluid milk products from regulated plants under any of the New England Federal orders in an amount not in excess of two percent of own farm production.

### § 999.3 Definitions of plants.

- (a) "Plant" means the land and buildings, together with their surroundings, facilities and equipment, constituting a single operating unit or establishment which is operated exclusively by one or more persons engaged in the business of handling fluid milk products for resale or manufacture into milk products, and which is used for the handling or processing of milk or milk products, except that this definition shall not include any separate building, premise, equipment or facility used primarily to hold or store packaged fluid milk products in transit on routes.
- (b) "City plant" means any plant which is located within 10 miles of the marketing area.
- (c) "Country plant" means any plant which is located beyond 10 miles of the marketing area.

- (d) "Receiving plant" means any plant at which facilities are maintained and used for washing and sanitizing cans or tank trucks and to which milk is moved from dairy farmers' farms in cans and is there accepted, weighed or measured, sampled, and cooled; or to which milk is moved from dairy farmers' farms in tank trucks and is there transferred to stationary equipment in the building or to other vehicles.
- (e) "Pool plant" means any receiving plant which meets the applicable conditions and requirements for pool plant status contained in §§ 99.20 and 999.21, except a pool plant under another Federal order, or the plant of a producerhandler under any Federal order.
- (f) "Distributing plant" means any plant from which fluid milk products processed and packaged at the plant are distributed in the marketing area on routes.
- (g) "Regulated plant" means: (1) Any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater percentage of its Class I milk in another Federal order marketing area on routes.
- (h) "Supply plant" means any receiving plant, other than a regulated distributing plant, from which fluid milk products are shipped in bulk to a distributing plant.
- (i) "Other Federal order plant" means a pool plant under another Federal order, or any plant which is not a regulated plant under the provisions of this order but at which all fluid milk products handled become subject to the classification and pricing provisions of a Federal milk order.

# § 999.4 Definitions of milk and milk products.

- (a) "Milk" means the commodity received from a dairy farmer as cow's milk. The term also includes milk so received which later has its butterfat content adjusted to at least one-half of one percent but less than 10 percent; frozen milk; reconstituted milk; and 50 percent of the quantity by weight of "half and half".
- (b) "Fluid milk products" means milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, and concentrated milk, either individually or collectively.
- (c) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.
- (d) "Skim milk" means that fluid product of milk which remains after the removal of cream, and which contains less than one-half of one percent of butterfat.
- (e) "Half and half" means any fluid milk product, except concentrated milk, the butterfat content of which has been adjusted to at least 10 percent but less than 16 percent.

(f) "Concentrated milk" means the concentrated, unsterilized milk product, resembling plain condensed milk, which is disposed of to retail or wholesale outlets in fluid form for human consumption.

(g) "Cream" means that portion of milk, containing not less than 16 percent of butterfat, which rises to the surface of milk on standing, or is separated from it by centrifugal force. The term also includes sour cream; frozen cream; milk and cream mixtures containing 16 percent or more of butterfat; and 50 percent of the quantity, by weight, of "half and half".

(h) "Producer milk" means milk which a handler has received as milk from producers. The quantity of milk received by a handler from producers shall include any milk of a producer which was not received at a plant but which the handler or an agent of the handler has accepted, measured, sampled, and transferred from the producer's farm tank into a tank truck during the month, and such milk shall be considered as received at the pool plant at which other milk from the same farm of that producer is received by the handler during the month.

(i) "Outside milk" means:

- (1) All receipts of fluid milk products from sources other than producers, regulated plants, and other Federal order plants, but not including receipts of exempt milk.
- (2) All other receipts of milk products, whether or not originally derived from producer milk, which are not fluid milk products but are combined with or converted into fluid milk products, and including cream or other such milk products received or produced at the handler's plant during a prior month.

(j) "Exempt milk" means:

- (1) Milk received at a regulated plant in bulk from an unregulated plant to be processed and packaged, and for which an equivalent quantity of packaged fluid milk products is returned to the operator of the unregulated plant during the same month, if such receipt of bulk milk and return of packaged fluid milk products occur during an interval in which the facilities of the unregulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or extraordinary circumstances similar completely beyond the dealer's control;
- (2) Packaged fluid milk products received at a regulated plant from an unregulated plant in return for an equivalent quantity of bulk milk moved from a regulated plant for processing and packaging during the same month, if such movement of bulk milk and receipt of packaged fluid milk products occur during an interval in which the facilities of the regulated plant at which the milk is usually processed and packaged are temporarily unusable because of a fire, flood, storm, or similar extraordinary circumstance completely beyond the handler's control, or
- (3) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical

Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.

- (k) "Diverted milk" means milk which a pool handler reports as having been moved from a dairy farmer's farm to one of his pool plants, but which he caused to be moved from that farm to another plant, provided such movement is specifically reported and the conditions of subparagraph (1) or (2) of this paragraph have been met. Diverted milk shall be considered to have been received at the pool plant from which it was diverted.
- (1) The handler caused milk from that farm to be moved to such pool plant on a majority of the delivery days, during the 12 months ending with the current month, on which the handler, either caused milk to be moved from the farm, as producer milk or caused milk to be moved as producer milk from the farm by tank truck; or
- (2) The handler caused the milk to be moved from that farm in a tank truck in which it was intermingled with milk from other farms, the milk from a majority of which farms was diverted from the same pool plant during the month in accordance with the preceding provisions of this paragraph.

#### MARKET ADMINISTRATOR

### § 999.10. Designation of market administrator.

The agency for the administration of this part shall be a market administrator selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

### § 999.11 Powers of market administrator.

The market administrator shall have the following powers with respect to this part:

- (a) To administer its terms and provisions;
- (b) To make rules and regulations to effectuate its terms and provisions;
- (c) To receive, investigate, and report to the Secretary complaints of violations of its terms and provisions; and
- (d) To recommend amendments to the Secretary.

### § 999.12 Duties of market administra-

The market administrator, in addition to the duties described in other sections of this part, shall:

- (a) Within 45 days following the date upon which he enters upon his duties, execute and deliver to the Secretary a bond conditioned upon the faithful performance of his duties, in an amount and with sureties thereon satisfactory to the Secretary;
- (b) Employ and fix the compensation of such persons as may be necessary to enable him to exercise his powers and perform his duties;
- (c) Pay, out of the funds provided by \$999.72, the cost of his bond, his own compensation, and all other expenses necessarily incurred in the maintenance and functioning of his office;

- (d) Keep such books and records as will clearly reflect the transactions provided for in this part and surrender the same to his successor, or to such other person as the Secretary may designate:
- (e) Prepare and disseminate for the benefit of producers, consumers, and handlers, statistics and information concerning the operation of this part;

(f) Promptly verify the information contained in the reports submitted by handlers; and

(g) Give each of the producers delivering to a plant as reported by the handler prompt written notice of his actual or potential loss of producer status for the first month in which the plant's status has changed or is changing to that of a nonpool plant.

### CLASSIFICATION

### § 999.15 Classes of utilization.

All milk and milk products received by a handler shall be classified as Class I milk or Class II milk. Subject to §§ 999.16 and 999.17, the classes of utilization shall be as follows:

(a) Class I milk shall be:

(1) All milk and milk products sold, distributed, or disposed of as or in milk;

- (2) All milk and milk products sold, distributed, or disposed of for human consumption as or in flavored milk, skim milk, flavored or cultured skim milk, or buttermilk;
- (3) Ninety-eight percent, by weight, of the milk and milk products used to produce concentrated milk; and
- (4) All milk and milk products the utilization of which is not established as Class II milk.
- (b) Class II milk shall be all milk and milk products the utilization of which is established:
- (1) As being sold, distributed, or disposed of other than as specified in subparagraphs (1), (2), and (3) of paragraph (a) of this section; and
- (2) As plant shrinkage, not in excess of 2 percent of the volume of fluid milk products and cream handled.

### § 999.16 Classification of fluid milk products moved to other plants.

Any fluid milk products moved from a regulated plant to any other plant shall be classified as follows:

- (a) As Class I milk if moved as packaged fluid milk products to any other plant;
- (b) As Class I milk if moved to the plant of a producer-handler under any Federal order;
- (c) In the class to which it is assigned under §§ 999.25 and 999.26 if moved as bulk fluid milk products to any other handler's regulated plant;
- (d) In the class to which assigned under the other order, if moved as bulk fluid milk products to a regulated plant under another New England Federal order or the New York-New Jersey order;
- (e) As Class I milk up to the total quantity of the same form of fluid milk products so moved which is utilized as Class I milk at the transferee plant, if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the

New York-New Jersey order or the plant of a producer-handler under any Federal order; and

(f) As Class I milk if moved as bulk fluid milk products to any plant other than a regulated plant under any New England Federal order or the New York-New Jersey order and thence to another plant located outside the New England States and New York State.

#### § 999.17 Responsibility of handlers in establishing the classification of milk.

The burden rests upon the handler who operates a plant to account for any milk and milk products received or available at the plant, and to prove that they should not be classified as Class I milk.

### DETERMINATION OF POOL PLANT STATUS

### § 999.20 Basic pooling requirements.

Each receiving plant shall be considered to have met the basic pooling requirements in any month in which it meets the applicable conditions of this section.

(a) It is a distributing plant with total Class I disposition of at least 50 percent of its total receipts of fluid milk products and Class I route disposition in the marketing area of not less than 10 percent of its receipts from dairy farmers, and such route disposition in the marketing area exceeds its Class I route disposition in any other New England Federal marketing area.

(b) It is a plant located in the marketing area which is operated by an association of producers and the Class I route disposition from the plant does not exceed 2 percent of the total receipts of fluid milk products at the plant.

(c) It is a supply plant from which at least 30 percent of its total receipts of milk from dairy farmers is shipped as bulk fluid milk products to regulated distributing plants.

### § 999.21 Supplementary pooling provisions for supply plants.

(a) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants during the month, if in each of the pre-ceding months of July through November it was a pool plant or would have been a pool plant had it not been a pool plant under another New England Federal order, unless:

(1) The plant has automatic pool plant status for such month under another New England Federal order and a greater quantity of the receipts from dairy farmers at the plant during the preceding July through November period was pooled under the other order than was pooled under this part;

(2) The plant is designated as a nonpool plant pursuant to paragraph (e)

of this section; or

(3) The plant was a nonpool plant under all of the New England Federal orders in a prior month of the current December through June period.

(b) Any supply plant shall have automatic pool plant status in any of the months of December through June, regardless of whether any fluid milk products are shipped to distributing plants

during the month, if it was a pool plant under one or another of the New England Federal orders during each of the preceding months of July through November and a greater quantity of its receipts from dairy farmers during the July through November period was pooled under this order than under any other New England Federal order. However, no plant shall have automatic pool plant status under this paragraph for any month of such December through June period subsequent to a month for which the plant is designated as a nonpool plant pursuant to paragraph (e) of this section.

(c) Any supply plant, except a plant which has automatic pool plant status for such month under paragraph (a) or (b) of this section, shall be a nonpool plant in any month in which it meets the conditions and requirements for pool plant status under another New England Federal order and ships a greater quantity of bulk fluid milk products to regulated distributing plants under that order than it ships to regulated distributing plants under this part. However, no plant shall be barred from pool plant status under this paragraph for any month in which the greater quantity of such shipments is made to regulated distributing plants under the Boston order but the plant is designated as a nonpool plant under that order at the handler's request.

(d) Any supply plant shall be a nonpool plant in each of the months of December through June if it was a nonpool receiving plant under each of the New England Federal orders during any of the preceding months of July through November in which it was operated by the same handler, an affiliate of the handler, or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler's plant under any New England Fed-

eral order.

(e) A supply plant shall be a nonpool plant in any of the months of December through June for which the market administrator has received, on or before the 16th day of the month, the handler's written request that the plant be designated as a nonpool plant for that month.

### ASSIGNMENT OF RECEIPTS TO CLASSES

### § 999.25 Assignment of receipts at regulated plants to Class I milk.

Receipts at regulated plants shall be assigned to Class I milk in the following sequence:

(a) Receipts of exempt milk;

(b) Receipts from other Federal order. plants of packaged fluid milk products classified and priced as Class I milk under the other Federal order;

(c) Receipts from other handlers' reg. ulated plants of packaged fluid milk products;

(d) Receipts from regulated plants under the Boston order of bulk fluid milk products classified as Class I milk under the Boston order;

(e) Receipts from other handlers' regulated city plants of bulk fluid milk products, for which classification as Class II milk has not been requested by both handlers:

(f) Receipts from producers at each of the handler's country pool plants to the extent of the quantity of Class I milk disposed of outside the marketing area without being received at a city plant;

(g) Receipts from producers at the

handler's city plant;

(h) Receipts from other handlers' regulated country plants of bulk fluid milk products, for which classification as Class II milk has not been requested by both handlers, in the order of the nearness of the originating plants to Worcester according to their zone locations:

(i) Receipts from producers at the handler's country plants not assigned pursuant to paragraph (f) of this section, in the order of the nearness of the plants to Worcester according to their

zone locations:

(j) Receipts from other handlers' regulated plants of bulk fluid milk products not assigned to Class I milk under paragraphs (e) and (h) of this section, in the order of the nearness of the originating plants to Worcester according to their zone locations:

(k) Receipts from other Federal order plants of bulk fluid milk products not assigned to Class I milk under paragraph (d) of this section but subject to classification and pricing as Class I milk under the other Federal order if assigned to Class I milk under this part. If there are receipts from more than one other Federal order market, the remaining Class I milk shall be prorated between the originating markets, except that if the handler has Class I route disposition in an originating market, the receipts from such market shall take priority of assignment to any residual Class I use up to the total quantity of Class I route disposition in such market by the handler:

(1) Receipts from other Federal order plants of fluid milk products not assigned to Class I milk under paragraphs (b), (d), and (k) of this section:

(m) Receipts of outside milk in the form of fluid milk products, in the order of the nearness of the unregulated plants to Worcester according to their zone locations; and

(n) All other receipts, or available quantities of fluid milk products, from whatever source derived.

### § 999.26 Assignment of receipts at regulated plants to Class II milk.

Receipts at regulated plants of milk and milk products which are not assigned to Class I milk pursuant to § 999.25 shall be assigned to Class II milk.

### REPORTS OF HANDLERS

### § 999.30 Pool handlers' reports of receipts and utilization.

On or before the 8th day after the end of each month each pool handler shall, with respect to the milk products received by the handler during the month report to the market administrator in the detail and form prescribed by the market administrator, as follows:

(a) The receipts of milk at each pool plant from producers, including the quantity, if any, received from his own production:

(b) The receipts of fluid milk products at each plant from any other handler, assigned to classes pursuant to §§ 999.25 and 999.26;

(c) The receipts of outside milk and exempt milk at each plant; and

(d) The quantities from whatever source derived which were sold, distributed, or used, including sales to other handlers and dealers, classified pursuant to §§ 999.15 through 999.17.

### § 999.31 Reports of nonpool handlers.

Each nonpool handler shall file with the market administrator reports relating to his receipts and utilization of fluid milk products. The reports shall be made at the time and in the manner prescribed by the market administrator, except that any handler who receives outside milk during any month shall file the report on or before the 8th day after the end of the month.

### § 999.32 Reports regarding individual producers.

(a) Within 20 days after a producer moves from one farm to another, starts or resumes deliveries to any of a handler's pool plants, or starts delivering his milk to the handler shall file with the market handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to, starting or resuming deliveries.

(b) Within 15 days after the 5th consecutive day on which a producer has failed to deliver to any of a handler's pool plants, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries.

### § 999.33 Reports of payments to producers.

Each pool handler shall submit to the market administrator, within 10 days after his request made not earlier than 20 days after the end of the month, his producer payroll for such month, which shall show for each producer:

(a) The daily and total pounds of milk delivered with the average butter-fat test thereof; and

(b) The net amount of such handler's payments to such producer with the prices, deductions, and charges involved.

### § 999.34 Maintenance of records.

Each handler shall maintain detailed and summary records showing all receipts, movements, and disposition of milk and milk products during the month, and the quantities of milk and milk products on hand at the end of the month.

### § 999.35 Verification of reports.

For the purpose of ascertaining the correctness of any report made to the market administrator as required by this part or for the purpose of obtaining the

information required in any such report where it has been requested and has not been furnished, each handler shall permit the market administrator or his agent, during the usual hours of business. to:

(a) Verify the information contained in reports submitted in accordance with this order:

(b) Weigh, sample, and test milk and milk products; and

(c) Make such examination of records, operations, equipment, and facilities as the market administrator deems necessary for the purpose specified in this section.

### § 999.36 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: Provided, That if, within such three-year period, the market administrator notifies the handler in writing that the retention of such books and records, or of specified books and records, is necessary in connection with a proceeding under section 8c(15)(A) of the act or a court action specified in such notice, the handler shall retain such books and records, or specified books and records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

### § 999.37 Notices to producers.

Each pool handler shall furnish each producer from whom he receives milk with information regarding the daily weight and composite butterfat test of the producer's milk, as follows:

(a) Within 3 days after each day on which he receives milk from the producer, the handler shall give the producer written notice of the daily quantity so received.

(b) Within 7 days after the end of any sampling period for which the composite butterfat test of the producer's milk was determined, the handler shall give the producer written notice of such composite test.

### MINIMUM CLASS PRICES

### § 999.40 Class I price at city plants.

The Class I price per hundredweight at city plants shall be the New England basic Class I price per hundredweight determined for each month pursuant to § 999.48 plus 54 cents.

### § 999.41 Class II price at city plants.

The Class II price per hundredweight at city plants shall be the Class II price determined for each month pursuant to § 904.41 of the Boston order plus 5.8 cents.

#### § 999.42 Country plant zone price differentials.

In the case of receipts at country plants, the prices determined pursuant

to \$\$ 999.40, 999.41 and 999.51 shall be subject to zone price differentials based upon the zone location of the plant at which the milk is received from producers

(a) The zone location of each country plant shall be based upon its highway mileage distance to Worcester as determined by use of the appropriate State maps contained in Mileage Guide No. 6, and revisions thereof, issued by Household Goods Carriers' Bureau, Agent, Washington, D.C. The distance shall be the lowest highway mileage between Worcester and the named point on the map which is nearest to the plant, over roads designated thereon as paved, firstclass, all-weather roads. In the event that the named point is not located on a through first-class road, such other roads shall be used to reach a through first-class road as will result in the lowest highway mileage to Worcester, except that such other roads shall not be used for a distance of more than 15 miles if it is otherwise possible to connect with a through first-class road. In any instance in which the map does not clearly show the mileage between points on a road, the mileage used shall be the mileage as determined by the highway authority for the State in which the road is located.

(b) The zone price differentials for each country plant shall be those applicable to its zone location as shown in the following table.

COUNTRY PLANT ZONE PRICE DIFFERENTIALS

A	В	0	D
Distance to Worcester (miles)	Zone	Class I and blended price dif- ferentials (cents per- hundred- weight)	Class II price dif- ferentials (cents per hundred- weight)
40 or less	4	-17. 0 -34. 8 -36. 0 -37. 2 -38. 4 -39. 6 -39. 6 -42. 0 -43. 2 -44. 4 -45. 6 -48. 8 -49. 2 -50. 6 -51. 6 -52. 8 -55. 0 -56. 0	-2.0 -3.0 -3.0 -3.0 -3.0 -4.8 -4.8 -4.8 -6.0 -6.0 -7.0
231 to 240 241 to 250 251 to 260 261 to 270 271 to 280 281 to 290 291 to 300 301 and over	24 25 26 27 28 29 30 31 and over	-57. 0 -58. 0 -59. 0 -60. 0 -61. 0 -62. 0 -63. 0	-7.0 -7.0 -8.0 -8.0 -8.0 -8.0

<sup>&</sup>lt;sup>1</sup> Class I and blended price differentials applicable to plants located more than 300 miles from Worcester shall be obtained by extending the table at the rate of one cent for each additional 10 miles, except that in no event shall the Class I or blended price at any zone be less than the Class II price for the month for plants in such zone.

# § 999.44 Use of equivalent factors in formulas.

If for any reason a price, index, or wage rate specified by this part for use in computing class prices for any other purposes is not reported or published in the manner described in this part, the market administrator shall use a price, index, or wage rate determined by the Secretary to be equivalent to or comparable with the factor which is specified.

#### § 999.45 Announcement of class prices.

The market administrator shall make public announcements of the class prices as follows:

- (a) He shall announce the Class I price for each month on the 25th day of the preceding month, except that if such 25th day is a Sunday or legal holiday he shall announce the Class I price on the next succeeding work day.
- (b) He shall announce the Class II price on or before the 5th day after the end of each month.

### NEW ENGLAND BASIC PRICE FORMULA

### § 999.48 Computation of New England basic Class I price.

The New England basic Class I price per hundredweight of milk containing 3.7 percent butterfat shall be determined for each month pursuant to this section. The latest reported figures available to the market administrator on the 25th day of the preceding month shall be used in making the following computations, except that if the 25th day of the preceding month falls on a Sunday or legal holiday the latest figures available on the next succeeding work day shall be used.

- (a) Compute the economic index as follows:
- (1) Divide by 1.190 the monthly wholesale price index for all commodities as reported by the Bureau of Labor Statistics, United States Department of Labor, with the years 1947-49 as the base period.
- (2) Using the data on per capita personal income, by States and regions, as published by the United States Department of Commerce, establish a England adjustment percentage" by computing the current percentage relationship of New England per capita personal income to per capita personal income in continental United States. Multiply by the New England adjustment percentage the quarterly figure showing the current annual rate of per capita disposable personal income in the United States as released by the United States Department of Commerce or the Council of Economic Advisers to the President. Divide the result by 20.50 to determine an index of per capita disposable personal income in New England.
- (3) Multiply by 20 the average price per 100 pounds paid by farmers in the New England region for all mixed dairy feed of less than 29 percent protein content as reported by the United States Department of Agriculture for the month and divide the result by .8082 to determine the dairy ration index. Compute the average, weighted by the indicated factors, of the following farm wage rates reported for the New England region by the United States Department

of Agriculture: Rate per month with board and room, 1; rate per month with house, 1; rate per week with board and room, 4.33; rate per week without board or room, 4.33; and the rate per day without board or room, 26. Divide the average wage rate so computed by 1.9833 to determine the wage rate index. Multiply the dairy ration index by 0.6 and the wage rate index by 0.4 and combine the two results to determine the grain-labor cost index.

- (4) Divide by 7 the sum of three times the wholesale price index, the index of per capita disposable income in New England, and three times the grainlabor cost index determined pursuant to this paragraph. The result shall be known as the economic index.
- (b) Compute an economic index price as follows:
- (1) Multiply the economic index by \$.0567, expressing the result to the nearest mill;
- (2) Divide the Class I-A price for the month determined pursuant to Federal Order No. 27 and applicable to the 201-210 mile freight zone for 3.5 percent milk by the product of the utilization adjustment percentage and the seasonal adjustment factor which entered into the computation thereof, and then add \$0.08, expressing the result to the nearest mill;
- (3) The economic index price shall be the price computed in subparagraph (1) of this paragraph, unless the difference between the result computed in subparagraph (1) of this paragraph and the result computed in subparagraph (2) of this paragraph exceeds 11 cents. In that event, the economic index price shall be the price computed pursuant to subparagraph (1) of this paragraph minus the amount of the excess above 11 cents if the result under subparagraph (1) of this paragraph is the greater, and plus the amount of the excess above 11 cents if the result under subparagraph (2) of this paragraph is the greater.
- (c) Compute a supply-demand adjustment factor as follows:
- (1) Combine into separate monthly totals the receipts from producers for Greater Boston, Connecticut, Southeastern New England, Springfield, and Worcester and the Class I milk from producers for the same markets as announced by the respective market administrators in the statistical reports for such markets for the second and third months preceding the month for which the price is being computed.
- (2) Divide the five-market total of Class I producer milk by the five-market total of receipts from producers for each of the two months for which computations were made pursuant to subparagraph (1) of this paragraph.
- (3) Divide each of the percentages determined in subparagraph (2) of this paragraph into the following base Class I percentage for the respective month, multiply each result by 100, and compute a simple average of the resulting

percentages. The result shall be known as the percentage of base supply.

se
ss <b>I</b>
ntage
71.6
69.8
<b>6</b> 5. <b>1</b>
61.1
55.5
56.7
69.3
74.7
75.8
76.5
77.9
<b>7</b> 3.0

(4) The supply-demand adjustment factor shall be the figure in the following table opposite the bracket within which the percentage of base supply falls. When the percentage of base supply falls in an interval between brackets, the supply-demand adjustment factor shall be the figure shown for the next higher bracket if the factor for the previous month was based on a bracket higher than such interval, and shall be the figure for the next lower bracket if the factor for the previous month was based on a bracket lower than such interval.

	Supply-demand adjustment
Percentage of base supply: 1	factor
90.5-91.5	1.06
92.0-93.0	1.05
93.5-94.5	1.04
95.0-96.0	1.03
96.5-97.5	1.02
	1.01
99.5-100.5	1.00
101.0-102.0	
102.5-103.5	98
104.0-105.0	97
105.5-106.5	
107.0-108.0	95
108.5-109.5	

- <sup>1</sup>If the percentage of base supply calculated according to subparagraph (4) of this paragraph falls outside the extremes shown in this column, the supply-demand adjustment factor shall be determined by extending the table at the indicated rate of extension.
- (d) The seasonal adjustment factor shall be the factor listed below for the month for which the price is being computed.

Sed	isonai
<b>ad</b> ju	stmen <b>t</b>
Month: fo	ctor
January and February	1.04
March	. 1.00
April	92
May and June	88
July	96
August	1.00
September	. 1.04
October, November, and December	. 1.08

(e) Multiply the Economic Index price determined pursuant to paragraph (b) of this section by the product of the supply-demand adjustment factor determined pursuant to paragraph (c) of this section times the seasonal adjustment factor determined pursuant to paragraph (d) of this section. The New England basic Class I price shall be the price set forth in column 3 of the following table opposite the range within which the result of this computation falls.

Range	
But less than-	basic Class I price
\$5.08	\$4.97
5. 52	5. 19 5. 41
5. 96	5. 63 5. 85
6, 40	6, 07 6, 29
6.84	6. 51 6. 73 6. 95
	\$5.08 5.30 5.52 5.74 5.96 6.18 6.40 6.62

<sup>1</sup> If the result of the computation specified in this paragraph is less than \$4.86 or is \$7.06 or more, the New England basic Class I price shall be determined by extending the table at the indicated rate of extension.

(f) Notwithstanding the provisions of the preceding paragraphs of this section. the New England basic Class I price for November or December of each year shall not be lower than such price for the immediately preceding month.

#### BLENDED PRICES TO PRODUCERS

### § 999.50 Computation of value of milk received from producers.

For each month, the market administrator shall compute the value of milk received from producers by each pool handler in the following manner:

- (a) Multiply the quantities of milk received from producers assigned to Class I milk pursuant to § 999.25 by the applicable prices pursuant to §§ 999.40 and 999.42:
- (b) Multiply the quantities of milk received from producers assigned to Class II milk pursuant to § 999.26 by the applicable prices pursuant to §§ 999.41 and 999.42; and
- (c) Add together the resulting value of each class.

### § 999.51 Computation of the basic blended price.

The market administrator shall compute the basic blended price per hundredweight of milk delivered during each month in the following manner:

- (a) Combine into one total the respective net values of milk computed pursuant to §§ 999.50 and the payments required pursuant to § 999.65 for each handler from whom the market administrator has received at his office, prior to the 11th day after the end of such month. the report for such month and the payments required pursuant to §§ 999.61(b) and 999.65, for the preceding month;
- (b) Add the amount of reserved cash on hand at the close of business on the 10th day after the end of the month from payments made to the market administrator by handlers pursuant to §§ 999.61, 999.62, 999.65 and 999.67;

(c) Deduct the amount of the plus differentials, and add the amount to the minus differentials, which are applicable

pursuant to § 999.64;

- (d) Divide by the total quantity of pool milk for which a value is determined pursuant to paragraph (a) of this section; and
- (e) Subtract not less than 4 cents nor more than 5 cents for the purpose of retaining a cash balance in connection with the payments set forth in §§ 999.61 and 999.62. This result, which is the minimum blended price for milk con-

taining 3.7 percent butterfat received from producers at city plants, shall be known as the basic blended price.

### § 999.52 Announcement of blended prices.

On the 12th day after the end of each month the market administrator shall mail to all pool handlers and shall publicly announce:

(a) Such of these computations as do not disclose information confidential pursuant to the act;

(b) The zone blended prices per hundredweight resulting from adjustment of the basic blended prices by the differentials pursuant to § 999.64; and

(c) The names of the pool handlers, designating those whose milk is not included in the computations because of failure to make reports or payments pursuant to this part.

#### PAYMENTS FOR MILK

### § 999.60 Advance payments.

On or before the 5th day after the end of each month, each pool handler shall make payment to producers for the approximate value of milk received during the first 15 days of such month. In no event shall such advance payment be at a rate less than the Class II price for such month.

### § 999.61 Final payments.

Each pool handler shall make payment for the total value of milk received during such month as required to be computed pursuant to § 999.50, as follows:

(a) On or before the 20th day after the end of each month, to each producer at not less than the basic blended price per hundredweight, subject to the dif-ferentials provided in §§ 999.63 and 999.64, for the quantity of milk delivered by such producer; and

(b) To producers, through the market administrator, by paying to the market administrator on or before the 18th day after the end of each month, or receiving from the market administrator on or before the 20th day after the end of each month, as the case may be, the amount by which the payments at the basic blended price adjusted by the plant and farm location differentials provided in § 999.64 are less than or exceed the value of milk as required to be computed for each such handler pursuant to § 999.50, as shown in a statement rendered by the market administrator on or before the 15th day after the end of such month.

### § 999.62 Adjustments of errors in payments.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses an error in payments made pursuant to §§ 999.61(b) and 999.65, the market administrator shall promptly issue to the handler a charge bill or a credit, as the case may be, for the amount of the error. Adjustment charge bills issued during the period from the 11th day of the prior month through the 10th day of the current month shall be payable by the handler to the market administrator on or before the 18th day of the current month. Adjustment credits issued during such period shall be payable by the market administrator to the handler on or before the 20th day of the current month.

(b) Whenever verification by the market administrator of the payment to any producer for milk delivered to any handler discloses payment to such producer of an amount less than is required by § 999.61(a), the handler shall make up such payment to the producer not later than the time of making final payment for the month in which such error is disclosed.

### § 999.63 Butterfat differential.

Each handler shall, in making payments to each producer for milk received from him, add for each one-tenth of 1 percent of average butterfat content above 3.7 percent, or deduct for each one-tenth of 1 percent of average butterfat content below 3.7 percent, the amount per hundredweight determined for the corresponding month pursuant to § 904.63 of this chapter.

#### § 999.64 Location differentials.

The payments to be made to producers by handlers pursuant to § 999.61(a) shall be subject to the differentials set forth in Column C of the table in § 999.42, and to further differentials as follows:

(a) With respect to milk delivered by a producer whose farm is located in Franklin, Hampshire, Hampden, Worcester, Middlesex, or Norfolk Counties in Massachusetts, or in the towns of Brookline, Greenville, Hinsdale, Hollis, Mason, and New Ipswich in New Hampshire, or Vernon, Vermont, there shall be added 46 cents per hundredweight, unless such addition gives a result greater than the Class I price pursuant to §§ 999.40 and 999.42 which is effective at the plant to which such milk is delivered, in which event there shall be added an amount which will give, as a result, such price.

#### § 999.65 Payments on outside milk and receipts from other Federal order plants.

Within 18 days after the end of each month, handlers shall make payments to producers, through the market administrator as follows:

(a) Each handler operating a regulated plant at which there are assigned to Class I milk receipts of outside milk, or receipts from other Federal order plants which are not classified and priced as Class I milk under the other Federal order, shall make payment as

(1) On such receipts assigned pursuant to § 999.25 (1) or (m), at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the zone location of the unregulated plant. Receipts from each dairy farmer for other markets shall be considered as receipts from the unregulated plant to which he ordinarily delivered: and

(2) On quantities assigned pursuant to § 999.25(h) at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the handler's regulated plant nearest to Worcester.

(b) Each handler, except a producerhandler under any Federal order, who operates an unregulated plant from which there is Class I route disposition in the marketing area shall make payment at the difference between the price pursuant to § 999.40 and the price pursuant to § 999.41 applicable at the zone location of the handler's plant on the quantity of such disposition which is in excess of the receipts at the plant of fluid milk products classified and priced as Class I milk under any Federal order. except that the same receipts of priced milk shall not be used to offset Class I route disposition in this marketing area and in any other Federal marketing area.

# § 999.66 Deductions from payments to producers.

In making payments to producers as required by §§ 999.60 and 999.61(a), the burden shall rest upon the handler making deductions from such payments to prove that each deduction is properly authorized, and properly chargeable to the producer.

### § 999.67 · Adjustment of overdue accounts.

Any balance due, pursuant to §§ 999.61, 999.62 and 999.65, to or from the market administrator on the 20th day of any month, for which remittance has not been received in, or paid from, his office by the close of business on that day, shall be increased one-half of one percent effective the 21st day of such month: Provided, That any remittance received by the market administrator after the 20th day of any month in an envelope which is postmarked not later than the 18th day of such month, shall be considered under this section to have been received by the 20th of the month,

### § 999.68 Statements to producers.

In making the payments to producers prescribed in § 999.61(a), each pool handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(a) The month and the identity of the handler and of the producer;

(b) The total pounds and average butterfat test of milk delivered by the producer;

(c) The minimum rate or rates at which payment to the producer is required under the provisions of § 999.61(a);

(d) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(e) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deductions claimed under §§ 999.66, 999.70 and 999.71, together with a description of the respective deductions; and

(f) The net amount of payment to the producer.

### MARKETING SERVICES

### § 999.70 Marketing service deduction nonmembers of an association of producers.

In making payments to producers pursuant to § 999.61(a), each handler shall,

with respect to all milk delivered by each producer other than himself during each month, except as set forth in § 999.71, deduct 3 cents per hundredweight, or such lesser amount as the Secretary shall determine to be sufficient, and shall, on or before the 18th day after the end of each month, pay such deductions to the market administrator. moneys shall be expended by the market administrator only in providing for market information to, and for verification of weights, samples, and tests of milk delivered by, such producers. The market administrator may contract with an association or associations of producers for the furnishing of the whole or any part of such services to, or with respect to the milk delivered by, such producers.

#### § 999.71 Marketing service deduction members of an association of producers.

In the case of producers who are members of an association of producers which the Secretary determines is performing the services set forth in § 999.70, each handler shall, in lieu of the deductions specified in § 999.70, make such deductions from payments made pursuant to § 999.61(a) as may be authorized by such producers and pay, on or before the 20th day after the end of each month, such deductions to such associations, accompanied by a statement showing the pounds of milk delivered by each producer from whom the deduction was made.

#### Administration Expense

### § 999.72 Payment of administration expense.

Within 18 days after the end of each month, each handler shall make payment to the market administrator of his pro rata share of the expense of administration of this part. The payment shall be at the rate of 4 cents per hundredweight, or such lesser rate as the Secretary may from time to time prescribe, and shall apply to all of the handler's receipts, during the month, of milk from producers, of outside milk, and of exempt milk processed at a regulated plant.

### **OBLIGATIONS**

### § 999.73 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money irrespective of when such obligation arose.

(a) The obligation of any handler to pay money required to be paid under the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on the milk involved in such obligation, unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain. but need not be limited to, the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producers or to an association of producers, the name of such producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under this part, to make available to the market administrator or his representatives all books and records required by this order to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies a handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

tion is sought to be imposed.

(d) Any obligation on the r

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction or setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files, pursuant to section 8c(15)(A) of the act a petition claiming such money.

### MISCELLANEOUS PROVISIONS

### § 999.80 Effective time.

The provisions of this order, or any amendments to its provisions, shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 999.81.

### § 999.81 Suspension or termination.

The Secretary may suspend or terminate this order or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the act: This part shall, in any event, terminate whenever the provisions of the act authorizing it cease to be in effect.

### § 999.82 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person, such

further acts shall be performed notwithstanding such suspension or termination.

### § 999.83 Liquidation after suspension or termination.

Upon the suspension or termination of any or all provisions of this part the market administrator, or such person as the Secretary may designate, shall, if so. directed by the Secretary, liquidate the business of the market administrator's office and dispose of all funds and property then in his possession or under his control, together with claims for any funds which are unpaid or owing at the time of such suspension or termination. Any funds collected pursuant to the provisions of this part, over and above the amount necessary to meet outstanding obligations and the expenses necessarily incurred by the market administrator or such person in liquidating and distributing such funds, shall be distributed to the contributing handlers and producers in an equitable manner.

### § 999.84 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

Milk in Connecticut Marketing Area

- 1. Delete paragraph (c) of § 1019.1 and substitute therefor the following:
- (c) "Route" means any delivery to retail or wholesale outlets (including any disposition by a vendor, from a plant store, or to a vending machine) of fluid milk products classified as Class I milk pursuant to § 1019.21(a), other than in bulk to a plant or in packaged form to a plant which packages fluid milk products for Class I disposition: Provided, That disposition of packaged fluid milk products from a plant which does no packaging of fluid milk products, or disposition from any building or facility other than a plant, shall be considered as a continuation of the route(s) of the plant where such fluid milk products are packaged.
- 2. Delete paragraph (e) of § 1019.2 and substitute therefor the following:
- (e) "Producer" means any dairy Parmer (except a producer-handler under any Federal order or a dairy farmer who is a producer under another Federal order) who produces milk which is received during the month at a pool plant, or is diverted by a pool handler from a pool plant to a nonpool plant in accordance with subparagraph (1), (2) or (3) of this paragraph, if such pool handler, in filing the report required pursuant to § 1019.30, reports such milk as received from a producer at such pool plant: Provided, That any dairy farmer whose milk is diverted during any month of July through November, inclusive, on more than the number of days specified shall not be considered to qualify under this paragraph with respect to any of his deliveries of milk during such month.
- (1) To a nonpool plant during any month of July through September on not more than 8 days (4 days in the case of every-other-day delivery) during such month.

- (2) To a nonpool plant during any month of October through March on not more than 12 days (6 days in the case of every-other-day delivery) during such month.
- (3) To a nonpool plant during any month of April through June.
- 3. Delete paragraph (g) of \$1019.2 and substitute therefor the following:
- (g) "Handler" means (1) any person who during the month operates a pool plant or any other plant from which fluid milk products are disposed of directly or indirectly in the marketing area, (2) any person in his capacity as a subdealer, vendor or peddler selling fluid milk products on routes from such plants, or (3) any association of producers with respect to the milk of any producer which it causes to be diverted to a nonpool plant for the account of such association under the conditions of § 1019.2(e).
- 4. Insert the word "separate" immediately before the word "building" in the proviso of § 1019.3(a) and delete the words "or other milk products in finished form" as they appear in subparagraph (1) of such proviso.
- 5. Delete § 1019.3(e) and substitute therefor the following:
- (e) "Pool plant" means (1) any receiving plant (except the plant of a producer-handler under any Federal order) from which at least 10 percent of its total receipts of milk directly from dairy farmers is disposed of during the month within the marketing area on routes and not less than 50 percent of its total receipts of fluid milk products is disposed of during the month as Class I milk, unless the market administrator determines that such plant disposed of a greater porportion of its Class I milk in another Federal order marketing area on routes than was so disposed of in this marketing area:
- (2) Except as provided in subdivision (i) through (iv) of this subparagraph any receiving plant from which not less than 30 percent of its receipts of milk directly from dairy farmers is shipped during the month as fluid milk products to a pool plant qualified pursuant to subparagraph (1) of this paragraph or to a regulated plant other than a pool plant:
- (i) During any of the months of July through November any plant qualified as a pool plant pursuant to this subparagraph and also meeting the shipping requirements for pooling under another Federal order shall be exempt from the provisions of this order, except as provided in §§ 1019.30(b), 1019.31(b). 1019.33, and 1019.34, if the market administrator determines that a greater proportion of fluid milk products was shipped during such month to regulated plants under such other order unless such greater shipments were made to Boston regulated plants and the plant operator elects nonpool status under the Boston order during such month:
- (ii) Any plant which was a pool plant pursuant to this subparagraph in each of the months of July through November or which held pooling status under one or another of the New England Federal orders in each month of such period but

had the greater proportion of its producer receipts pooled under this order during such period shall be a pool plant in the immediately succeeding months of December through June, unless the operator thereof gives written notice to the market administrator on or before the 16th day of any such month that the plant is a nonpool plant for such month: Provided, That any such plant which was a nonpool plant in any of the months of July through November and for which nonpool status is requested for any month of December through June, or any plant which was a pool plant in each of such months of July through November, but which is operated as a nonpool plant under all of the New England Federal orders in any of the months of December through June shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph:

(iii) Any plant which was not a pool plant under this order during each of the months of July through November but which met the pooling requirements pursuant to this subparagraph in each of such months shall be a pool plant in any of the months of December through June, if written request for pooling status is made to the market administrator on or before the 16th day of such month and such plant is not a pool plant under another Federal order in such month. except that if such plant was a nonpool plant under all of the New England orders in any of the months of December through June it shall be a pool plant in any subsequent month of such period only if it meets the shipping requirements pursuant to this subparagraph;

- (iv) Any plant which was a nonpool plant under all of the New England orders during any of the month of July through November shall not be a pool plant in any of the month of December through June in which it is operated by the same handler, an affiliate of the handler or any person who controls or is controlled by the handler, except as it was then operated as a producer-handler plant.
- 6. Add a new paragraph (d) at the end of § 1019.3 to read as follows:
- (d) "Regulated plant" means (1) any pool plant, or (2) any other plant (except the plant of a producer-handler under any Federal order) in any month in which at least 50 percent of its total receipts of fluid milk products is disposed of as Class I milk and not less than 10 percent of such receipts is disposed of in the marketing area on routes, unless the market administrator determines that such plant disposes of a greater percentage of its Class I milk in another marketing area on routes.
- 7. Delete paragraph (g) (2) of § 1019.4 and substitute therefor the following:
- (2) Received at a pool plant in the form of packaged fluid milk products from a nonpool plant in return for which an equivalent quantity of skim milk and butterfat in the form of bulk milk is moved from a pool plant for processing and packaging during the same month, if such receipt and return occurs during

an interval in which the facilities of the pool plant at which the milk is usually processed and packaged are temporarily unusable because of fire, flood, storm, or similar extraordinary circumstances completely beyond the handler's control.

- 8. Delete the word "or" immediately preceding subparagraph (3) of § 1019.4 (g) and add the word "or" immediately following subparagraph (3) together with a new subparagraph (4) as follows:
- (4) Milk produced and processed in accordance with the standards of purity and quality for certified milk established by the American Association of Medical Milk Commissions and disposed of as packaged certified milk or packaged certified skim milk.
- 9. Delete paragraph (i) of § 1019.4 and substitute therefor the following:
- (i) "Packaged fluid milk products" means fluid milk products which have been placed in containers for disposition to retail or wholesale outlets.
- 10. Delete the word "and" immediately preceding subparagraph (b) (6) of § 1019.21 and add a new subparagraph (b) (7) immediately after subparagraph (b) (6) of § 1019.21 as follows: "and (7) contained in fluid milk products lost under extraordinary circumstances completely beyond the control of the handler, if such loss is substantiated by records satisfactory to the market administrator."
- 11. Insert at the end of § 1019.22(b) the words "under this or any other Federal order".
- 12. Delete § 1019.24(b) and substitute therefor the following:
- (b) Allocate skim milk in the follow-ing manner:
- (1) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk received during the month as exempt milk.
- (2) Subtract from the remaining pounds of skim milk in Class I milk the pounds of skim milk in packaged fluid milk products received during the month:
- (i) From fully regulated plants under another Federal order, and
- (ii) From any pool plant or any plant which receives its entire supply from a pool plant.
- (3) Subtract from the total pounds of skim milk in Class II milk, the pounds of skim milk shrinkage allocated pursuant to § 1019.21(b) (5).
- (4) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk the pounds of skim milk received during the month in other source milk in a form other than fluid milk products.
- (5) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in other source milk in the form of fluid milk products received during the month from other than fully regulated plants under the provisions of another Federal order.
- (6) Subtract from the remaining pounds of skim milk in Class II milk the pounds of skim milk in inventory of fluid

milk products on hand at the end of the month.

- (7) During the months of July through November, subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or 15 percent of the pounds of skim milk in receipts of producer milk, whichever is less.
- (8) Subtract from the remaining pounds of skim milk in Class II milk a quantity equal to such remainder or the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order, whichever is less.
- (9) Subtract from the remaining pounds of skim milk in each class, beginning with Class II milk, the pounds of skim milk in inventory of fluid milk products on hand at the beginning of the month.

(10) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (6) of this paragraph.

(11) Subtract from the remaining pounds of skim milk in each class beginning with Class I milk, the pounds of skim milk in bulk fluid milk products received during the month from fully regulated plants under the provisions of another Federal order and not assigned pursuant to subparagraph (8) of this paragraph.

(12) Add to the remaining pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (7) of this paragraph.

- (13) Subtract from the remaining pounds of skim milk in each class, respectively, the skim milk received in bulk from other pool plants and assigned to such class.
- (14) Add to the pounds of skim milk in Class II milk the pounds of skim milk subtracted pursuant to subparagraph (3) of this paragraph.
- (15) If the remaining pounds of skim milk in both classes exceed the pounds of skim milk in the producer milk of such handler subtract such excess (hereinafter referred to as "overage") from the remaining pounds of skim milk in each class in sequence beginning with Class II milk.
- 13. Delete subparagraphs (1) and (2) of § 1019.31(a), renumber subparagraph (3) as subparagraph (4), and substitute therefor the following:
- (1) Within 5 days after a producer moves from one farm to another, starts or resumes delivery to any of a handler's pool plants, or starts delivering his milk to the handler's plant by tank truck, in the case of a producer whose milk was directed to such pool plant by other than an association of producers, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the change took place, and the farm and plant locations involved. The report shall also state, if known, the plant to which the producer had been delivering prior to starting or resuming deliveries;
- (2) Promptly after the 5th consecutive day on which a producer has failed to

deliver to any of a handler's pool plants, in the case of a producer whose milk was directed to such pool plant by other than an association of producers, the handler shall file with the market administrator a report stating the producer's name and post office address, the date on which the last delivery was made, and the farm and plant locations involved. The report shall also state, if known, the reason for the producer's failure to continue deliveries;

(3) On or before the 8th day after the end of each month, with respect to other producers from whom milk was received during the month, such of the information specified in subparagraphs (1) and (2) of this paragraph as the market administrator shall request;

14. Delete § 1019.32 and substitute therefor the following:

### § 1019.32 Notices to producers.

- (a) Within 7 days after the end of each sampling period for which a composite butterfat test of a producer's milk was determined, each pool handler shall give the producer written notice of such composite test.
- (b) In making payments to producers prescribed in § 1019.60(a) each pool handler shall furnish each producer with a supporting statement of the information set forth in subparagraph (1) through (6) of this paragraph in such form that it may be retained by the producer: Provided, That in the case of producers for whom the handler makes payment to a cooperative association pursuant to § 1019.60(b), the information specified in subparagraphs (1), (2), and (5) of this paragraph shall be furnished by the handler to such cooperative association on or before the 14th day after the end of the month for which such payment is due:
- (1) The month and the identity of the handler and of the producer;
- (2) The total pounds and average butterfat test of milk delivered by the producer;
- (3) The minimum rate or rates at which payment to the producer is required under the provisions of § 1019.60 (a);
- (4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;
- (5) The amount or the rate per hundredweight of each deduction claimed by the handler, together with a description of the respective deductions; and
- (6) The net amount of payment to the producer.
- 15. In § 1019.42(b) change the reference "§ 1019.24(b) (1) to (8)" to "§ 1019.24(b) (1) to (12)".
- 16. In § 1019.46(a) change the reference "§ 1019.24(b).(2)" to "§ 1019.24(b).(4)".
- 17. In § 1019.46(b) change the reference "§ 1019.24(b) (3)" to "§ 1019.24(b) (5)".
- 18. In § 1019.46(c) (1) change the reference "§ 1019.24(b) (5)" to "§ 1019.24(b) (11)".
- 19. In § 1019.46(c) (2) change the reference "§ 1019.24(b) (5)" to "§ 1019.24(b) (11)".

19a. In § 1019.46(d) insert immediately after the words "Each handler" the phrase "(except a producer-handler under this or any other Federal order)" and immediately after the word "payment" insert the words "by the 19th day of the following month".

20. Delete § 1019.47.

- 21. In § 1019.50(c) change the reference "§ 1019.24(b) (12)" to "§ 1019.24(b) (15)".
- 22. Delete paragraph (d) of § 1019.50 and substitute therefor the following:
- (d) Add an amount computed by multiplying the difference between the Class II price for the preceding month and the Class I price for the current month applicable at the nearest plant location from which an equivalent quantity of skim milk and butterfat respectively. was allocated to Class II in the preceding month, by the hundredweight of skim milk and butterfat respectively, subtracted from Class I milk pursuant to § 1019.24 (b) (9) and (c) for the month which is in excess of the hundredweight of skim milk and butterfat respectively, allocated to Class II milk pursuant to § 1019.24 (b)(11) and (c) during the preceding month and classified and priced as Class I under the provisions of another Federal order.
- 23. Delete the words "following that" as they appear near the end of § 1019.67.
  24. Delete § 1019.68 and substitute therefor the following:

### § 1019.68 Adjustment of overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1019.46, 1019.65, 1019.69, and 1019.70 shall be increased one-half of one percent effective the 21st day of such month and on the 21st day of each month thereafter until such obligation is paid.

Issued at Washington, D.C., this 15th day of June 1960.

ROY W. LENNARTSON, Deputy Administrator.

[F.R. Doc. 60-5634; Filed, June 17, 1960; 8:45 a.m.]

### Agricultural Research Service [ 9 CFR Part 84 ] PULLORUM DISEASE AND FOWL TYPHOID

# Proposed Restrictions on Interstate Movement of Poultry

Notice is hereby given that it is proposed to amend Subchapter C, Chapter I, Title 9, Code of Federal Regulations, pursuant to sections 4-7 of the Act of May 29, 1884, as amended, and sections 1 and 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111-113, 115, 117, 120, 121), by adding a new Part 84—Pullorum Disease and Fowl Typhoid of Poultry, to read:

### § 84.1 Definitions.

As used in this part, the following terms shall have the meanings set forth in this section.

- (a) Poultry. Live chickens, ducks, geese, swans, turkeys, pigeons, doves, pheasants, grouse, partridges, quail, guinea fowl, and peafowl, of all ages.
- (b) Hatching eggs. Eggs of poultry for hatching.
- (c) Hatchery. Hatchery equipment on one premises operated or controlled by any person for the hatching of poultry.
- (d) Division. The Animal Disease Eradication Division, Agricultural Research Service, United States Department of Agriculture.
- (e) State. Any State, Territory, or the District of Columbia.
- (f) Interstate. From any State into or through any other State.
- (g) Federal inspector. An inspector of the Agricultural Research Service, United States Department of Agriculture, responsible for the function involved.
- (h) State inspector. An inspector regularly employed in livestock or poultry sanitary work of a State or a political subdivision thereof, who is authorized by such State or political subdivision to perform the function involved.
- (i) Accredited veterinarian. A veterinarian specifically approved by the United States Department of Agriculture to perform the function involved.
- (j) National Poultry Improvement Plan. The voluntary poultry improvement plan as set forth in Part 145 of this chapter.
- (k) National Turkey Improvement Plan: The voluntary turkey improvement plan as set forth in Part 146 of this chapter.
- (1) Moved. Shipped, transported or otherwise moved or delivered or received for movement, by any person.
- (m) Pullorum disease. The contagious, infectious, and communicable disease of poultry known as pullorum disease.
- (n) Fowl typhoid. The contagious, infectious, and communicable disease of poultry known as fowl typhoid.

## § 84.2 Notice relating to existence of pullorum disease and fowl typhoid.

Notice is hereby given that both pullorum disease and fowl typhoid exist in each State. There is evidence that both diseases are communicable and can be transmitted from infected parent stock through the egg to offspring as well as from bird-to-bird and through contamination of hatcheries.

### § 84.3 Notice of regulation.

Notice is hereby given that in order to preserve the gains already made toward the eradication of pullorum disease and fowl typhoid, to prevent the interstate spread thereof, and to protect the poultry of the United States, it is necessary to regulate the interstate movement of poultry and hatching eggs as provided in this part.

### § 84.4 Interstate movement of affected poultry.

Poultry and hatching eggs affected with pullorum disease or fowl typhoid, shall not be moved interstate for any purpose.

#### § 84.5 General restriction.

Poultry and hatching eggs, not affected with pullorum disease or fowl typhoid, shall not be moved interstate except as provided in this part.

### § 84.6 Permitted movement of poultry and hatching eggs.

(a) Poultry and hatching eggs, not known to be affected with pullorum disease or fowl typhoid, may be moved interstate under this part if accompanied by a certificate signed by the 'owner or shipper of such poultry or hatching eggs stating: (1) Name and address of consignor; (2) date of shipment; (3) name and address of the consignee; (4) name and location of the flock of origin, or the hatchery of origin if such movement is from a hatchery; (5) number of birds or eggs contained in the shipment; (6) breed, strain, cross or trade-name identification of the birds or eggs contained in the shipment; (7) that the flock of origin has been tested as prescribed in paragraph (c) of this section by either the standard pullorum-typhoid tube agglutination test, the rapid serum plate test, or the rapid whole-blood test using polyvalent antigen, for pullorum and fowl typhoid, and that no reactors have been found, and (8) that the poultry or hatching eggs contained in the shipment have not been exposed to equipment contaminated with pullorum or fowl typhoid nor to poultry or hatching eggs from flocks which have not qualified as described in subparagraph (7) of this paragraph. If the consignor is a qualified participant in the National Poultry Improvement Plan or the National Turkey Improvement Plan, and if the poultry or hatching eggs qualify under either § 145.10 (f) or (g) of this chapter or § 146.10 (e) or (f) of this chapter, they may be moved interstate under this part provided that the shipment is accompanied by a certificate signed by the participant giving the information specified in this paragraph (a) and indicating the official pullorum-typhoid classification of the poultry or hatching eggs.

(b) One copy of each certificate shall be immediately forwarded by the consignor direct to the Veterinarian in Charge for the Division in the State of origin of such shipment; one copy shall be retained by the shipper; and one copy shall be delivered to the carrier and accompany the shipment to destination.

(c) The test specified in paragraph (a) (7) of this section must be conducted at least 21 days subsequent to the last test upon which any reactors were found. All testing for purposes of paragraph (a) of this section must have been done within 12 months preceding interstate movement, by either a Federal or State inspector, an accredited veterinarian, or an agent properly authorized by the appropriate State official.

(d) Records showing the test results upon which each certificate is based shall be maintained by the signer of the certificate for a period of 12 months following the date the certificate was issued and shall be available for inspection by Federal and State inspectors upon request during said period.

### § 84.7 Containers for shipping poultry and hatching eggs.

Shipments of poultry and hatching eggs shall be made in new, clean containers, except that poultry may be shipped in used wood or metal crates if the crates have been thoroughly cleaned and disinfected in "Cresylic disinfectant" in accordance with §§ 71.10 (a) (1) and 71.11 of this chapter prior to each use thereof.

#### § 84.8 Poultry for immediate slaughter.

Poultry not known to be affected with pullorum disease or fowl typhoid may be moved interstate to a processing plant for immediate slaughter without complying with the provisions of § 84.6.

### § 84.9 Other movements.

The Director of Division may provide for the movement, not otherwise provided for in this part, of poultry, not known to be affected with pullorum disease or fowl typhoid, under such conditions as he may prescribe to prevent the spread of these diseases. The Director of Division will promptly notify the appropriate livestock sanitary official of the States involved of any such action.

Any person who wishes to submit written data, views, or arguments concerning the foregoing proposed regulations may do so by filing them with the Director, Animal Disease Eradication Division, Agricultural Research. Service, United States Department of Agriculture, Washington 25, D.C., within 90 days after publication hereof in the Federal Register.

Done at Washington, D.C., this 13th day of June, 1960.

M. R. CLARKSON, Acting Administrator, Agricultural Research Service,

[F.R. Doc. 60-5653; Filed, June 17, 1960; 8:51 a.m.]

### FEDERAL AVIATION AGENCY

[ 14 CFR Parts 600, 601, 608 ]

[Airspace Docket No. 60-NY-24]

### FEDERAL AIRWAYS, CONTROL AREAS, REPORTING POINTS AND RE-STRICTED AREAS

Designation of Restricted Area/Military Climb Corridor; Modification of Federal Airways and Associated Control Areas and Reporting Points and Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 600.277, 600.6029, 600.6213, 601.277, 601.1341, 601.4277, 601.6213 and 608.17 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration a proposal by the Department of the Air Force to designate a Restricted Area/Military Climb Corridor at Dover Air Force Base, Dover,

Del. The Military Climb Corridor, designated as a Restricted Area would be used by the high-speed, high-rate-ofclimb Century Series Air Defense aircraft while departing from the airbase on active air defense missions. The Restricted Area would provide protection for high-speed air defense aircraft and other users of the airspace during the climb phase of the air defense aircraft mission. The proposed Restricted Area/Military Climb Corridor would be designated on radials from the Dover AFB TVOR and TACAN, thereby permitting use of the climb corridor by either VOR or TACAN equipped air defense aircraft. It would extend along the Dover AFB TVOR and TACAN 184° True radials from 5 statute miles south to 32 statute miles south of the airbase, having a width at the beginning from 1 statute mile west of the TACAN 184° True radial to 2.3 statute miles east of the TVOR 184° True radial, and expanding uniformly to a width at the outer extremity from 2.3 statute miles west of the TACAN 184° True radial to 2.3 statute miles east of the TVOR 184° True radial. The lower altitude limits in graduated steps would extend from 2,000 feet MSL to 19,000 feet MSL. The upper altitude limits would extend from 15,000 feet MSL to 27,000 feet MSL. Time of use would be continuous. The controlling agency would authorize aircraft to operate within the Climb Corridor when not in use by active air defense aircraft. The controlling agency would be Dover AFB Approach Control.

Concurrently with the proposed designation of the Restricted Area/Military Climb Corridor at Dover AFB, the Federal Aviation Agency is considering modification of the segment of VOR Federal airway No. 29 between Salisbury, Md., and Kenton, Del., by realigning it from the Salisbury VOR via the intersection of the Salisbury-VOR 340° and the Kenton VOR 242° True radials, to the Kenton VOR. This modification would align this segment of Victor 29 west of the proposed Climb Corridor and would permit optimum use of altitudes on the airway segment while the Climb Corridor is in use. It is also proposed to revoke the segment of Red Federal sirway No. 77 and its associated control areas from the point of intersection with the southeast course of the Andrews, Md., radio range, to the Dover, Del., radio beacon. The designation of the proposed Restricted Area/Military Climb Corridor would preclude the effective use of airspace on this airway segment. Concurrently with the revocation of this segment of Red 77, the Federal Aviation Agency is considering modification of VOR Federal airway No. 213 which presently extends, in part, from Hopewell, Va., to Tappahannock, Va. (the point of intersection of the Hopewell VOR 019° True radial and the Brooke, Va., VOR direct radial to the Cape Charles, Va., VOR), at which point it terminates. It is proposed to extend Victor 213 and its associated control areas northeastward from Tappahannock via the Patuxent River, Md. (Navy) VOR to the Kenton VOR, excluding the portion which coincides with the Patuxent, Md., Restricted Area (R-71). This extension of Victor 213 would

provide a substitute airway for the segment of Red 77 proposed for revocation. In addition, the Federal Aviation Agency is considering modification of the Dover control area extension (§ 601.1341) to include the airspace within the proposed Restricted Area/Military Climb Corridor and substitute in its description VOR Federal airways No. 16 and No. 239 for Red Federal airway No. 77 and Blue Federal airway No. 49. This modification would provide control area within the Restricted Area/Military Climb Corridor for use by air traffic management when the climb corridor is not in active use by air defense aircraft.

The control areas associated with VOR Federal airway No. 29 are so designated that they would automatically conform to the modified airway. Accordingly, no amendment relating to such control areas would be necessary.

If these actions are taken:

(1) The Dover, Del., (Dover AFB) Restricted Area/Military Climb Corridor (R-595) (Washington Chart) would be designated as follows:

Description. That area based on the 184° True radials of the Dover AFB TVOR (latitude 39°07'40" N., longitude 75°27'38" W.) and Dover AFB TACAN (latitude 39°07'56" N., longitude 75°28'04" W.) beginning 5 statute miles south of the airbase and extending 32 statute miles south of the airbase, having a width at the beginning from 1 statute mile west of the TACAN 184° True radial to 2.3 statute miles east of the TVOR 184° True radial and expanding uniformly to a width at the outer extremity from 2.3 statute miles west of the TACAN 184° True radial to 2.3 statute miles east of the TVOR 184° True radial.

Designated altitudes.

2,000′ MSL to 15,000′ MSL from 5 statute miles south of the airbase to 6 statute miles south of the airbase. 2,000′ MSL to 24,000′ MSL from 6 to 7 statute miles south of the airbase. 2,000′ MSL to 27,000 MSL from 7 to 10 statute miles south of the airbase. 10,000′ MSL to 27,000′ MSL from 10 to 15 statute miles south of the airbase. 10,000′ MSL to 27,000′ MSL from 15 to 20 statute miles south of the airbase. 15,000′ MSL to 27,000′ MSL from 25 to 25 statute miles south of the airbase. 15,000′ MSL to 27,000′ MSL from 25 to 25 statute miles south of the airbase. 19,000′ MSL to 27,000′ MSL from 25 to 32 statute miles south of the airbase.

Time of use. Continuous.
Controlling agency. Dover AFB, Del., Approach Control.

- (2) VOR Federal airway No. 29 segment from Salisbury, Md., to Kenton, Del., would be redesignated from the Salisbury VOR via the intersection of the Salisbury VOR 340° and the Kenton VOR 242° True radials, to the Kenton VOR.
- (3) Red Federal airway No. 77 and its associated control areas from the point of intersection with the southeast course of the Andrews, Md., radio range to Dover, Del., radio beacon would be revoked. The caption to § 601.4277 relating to reporting points on Red Federal airway No. 77 would be amended to coincide with the modified airway.
- (4) VOR Federal airway No. 213 and its associated control areas would be extended from its present terminating point at Tappahannock, Va., via the 227 True radial of the Patuxent, Md. (Navy), VOR via the Patuxent (Navy) VOR to the Kenton, Del., VOR excluding the

portion which coincides with the Patuxent, Md., Restricted Area (R-71).

(5) The Dover, Del., control area extension would be redescribed as that airspace south of the Kenton, Del., VOR, bounded on the north by VOR Federal airway No. 16, on the east by VOR Federal airway No. 239, on the southeast by VOR Federal airway No. 1, on the southwest by VOR Federal airway No. 29, excluding the portion which coincides with the Milford, Del., Restricted Area (R-12) during its time of designation.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711. New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 14, 1960.

D. D. THOMAS,

Director, Bureau of

Air Traffic Management.

[F.R. Doc. 60-5618; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 59-LA-5]

### CONTROL AREAS

### Withdrawal of a Proposal To Designate a Control Area Extension

In a notice of proposed rule making published in the Federal Register as Airspace Docket No. 59-LA-5 on November 10, 1959 (24 F.R. 9169), it was stated that the Federal Aviation Agency proposed to designate a control area extension northwest of Alamosa, Colo. Other airspace actions now under consideration, including the designation of a VOR Federal airway between Alamosa

and Gunnison, Colo., would eliminate the requirement for designation of the control area extension as proposed in Airspace Docket No. 59-LA-5.

In consideration of the foregoing, the Notice of Proposed Rule Making contained in Airspace Docket No. 59-LA-5 is hereby withdrawn.

Sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D. C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5604; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-NY-39]

### **CONTROL AREAS**

# Designation of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of a control area extension at Rutland, Vt., to include the area bounded on the north, east and south by a line extending from the point of intersection on the eastern boundary of VOR Federal airway No. 91 at latitude 43°50'55" N., longitude 73°-10'45" W., to latitude 43°52'30" N., longitude 72°58'00" W.; thence to latitude 43°27'30" N., longitude 72°49'30" W.; thence to the eastern boundary of VOR Federal airway No. 91 at latitude 43°21'-40" N., longitude 73°28'45" W.; bounded on the west by the eastern boundary of VOR Federal airway No. 91. This control area extension would provide protection to aircraft operating under instrument flight rule conditions when conducting arrival and departure procedures to and from the Rutland, Vt., airport. It would also provide protection to aircraft departing Westover Air Force Base using standard departure tracks.

If this action is taken, the Rutland, Vt., control area extension would be designated as that airspace bounded on the north, east and south by a line extending from a point at the eastern boundary of VOR Federal airway No. 91 at latitude 43°50′55′′ N., longitude 73°10′45′′ W., to latitude 43°52′30′′ N., longitude 72°58′-00′′ W.; thence to latitude 43°27′30′′ N., longitude 72°49′30′′ W.; thence to the eastern boundary of VOR Federal airway No. 91 at latitude 43°21′40′′ N., longitude 73°28′45′′ W.; bounded on the west by the eastern boundary of VOR Federal airway No. 91.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building,

New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data. views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 14, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5601; Filed, June 17, 1960; 8:45 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-LA-22]

### CONTROL AREAS

# Designation of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of a control area extension at Cut Bank, Mont, within a 35-mile radius of the Cut Bank VOR in the east quadrant, and within a 30-mile radius of the Cut bank VOR in the west quadrant. This would protect aircraft executing prescribed holding procedures and standard instrument approach procedures at Cut Bank Airport.

If this action is taken, the Cut Bank, Mont., control area extension would be designated within a 35-mile radius of the Cut Bank VOR clockwise from the Cut Bank VOR 059° True radial to the 136° True radial; and within a 30-mile radius of the Cut Bank VOR clockwise from the Cut Bank VOR 216° True radial to the 347° True radial.

Interested persons may submit such written data, views or arguments as they

may desire. Communications should be submitted in triplicate to the Chief. Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Man-chester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief. Airspace Utilization Division. Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5603; Filed, June 17, 1960; 8:46 a.m.1

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-LA-30]

### CONTROL AREAS

### Designation of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration designation of a control area extension at Helena, Mont., to include the area east of Helena within a 35-mile radius of the Helena VOR extending clockwise from VOR Federal airway No. 2, north alternate, to VOR Federal airway No. 127; the area within 6 miles to the north and 10 miles to the south of the 089° and 269° True radials of the Helena VOR extending from 8 miles east to 30 miles west of the VOR, and the area northwest of Helena bounded on the east by VOR Federal airway No. 21, on the south by Victor 2 and on the northwest by VOR Federal airway No. 257. This would protect aircraft executing high altitude holding procedures and jet penetrations at the Helena County-City Airport, based on the Helena VOR.

If these actions are taken, the Helena, Mont., control area extension would be designated as that area east of Helena within a 35-mile radius of the Helena VOR extending clockwise from VOR Federal airway No. 2 North, to VOR Federal airway No. 127; the area within 6 miles north and 10 miles south of the 089° and 269° True radials of the Helena VOR extending from 8 miles east to 30 miles west of the VOR; and the area northwest of Helena bounded on the east by VOR Federal airway No. 21, on the south by VOR Federal airway No. 2 and on the northwest by VOR Federal airway No. 257.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within fortyfive days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

> D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5605; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-AN-17]

### **CONTROL ZONES**

### Designation

Pursuant to the authority delegated [F.R. Doc. 60-5611; Filed, June 17, 1960; to me by the Administrator (§ 409.13.

24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency has under consideration the designation of a control zone at Sitka, Alaska, within a 5-mile radius of the Sitka Harbor Seaplane Base and within 2 miles either side of the northeast and the southwest courses of the Sitka radio range extending from the 5-mile radius zone to 2 miles southwest of the radio range. The designation of this control zone would provide protection for aircraft executing the prescribed instrument approach procedure based on the radio range for approaches to the Sitka Harbor Seaplane Base.

If this action is taken, the Sitka, Alaska, control zone would be designated within a 5-mile radius of the Sitka Harbor Seaplane Base (latitude 57°03'30" N., longitude 135°21'30" W.), and within 2 miles either side of the northeast and southwest courses of the Sitka radio range extending from the 5-mile radius zone to two miles southwest of the radio range.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749. 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

> D. D. THOMAS, Director, Bureau of Air Traffic Management.

8:46 a.m.1

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-WA-24]

#### **CONTROL AREAS**

# Modification of Control Area Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1006 of the regulations of the Administrator, the substance of which is stated below.

The present Lake Charles, La., control area extension is designated within a 40-mile radius of the Lake Charles, La., VOR; within 5 miles either side of the 334° True radial of the Lake Charles VOR extending from the 40-mile radius area to a point 58 miles northwest of the VOR; within 5 miles either side of the 058° True radial of the VOR extending from the VOR to a point 42 miles northeast; and 5 miles either side of the 113° True radial of the Lufkin, Tex., VOR extending from the VOR to the Lake Charles 40-mile radius control area extension. The Federal Aviation Agency has under consideration the modification of this control area extension by adding an extension to the northwest bounded by a line beginning at a point on the arc of the Lake Charles 40-mile radius control area at latitude 30°24′00′′ N., longitude 93°42′00′′ W., thence north northwest to a point at latitude 31°08'00" N., longitude 94°02'00" W., thence northeast to latitude 31°23'00'' N., longitude 93°28'00'' W., 31°23′00′′ N., longitude 93°28′00′′ W., thence southeast to latitude 30°43′00′′ N., longitude 93°04′00′′ W., thence along the arc of the Lake Charles 40-mile radius control area to the point of beginning. This modification would provide protection for aircraft arriving and departing Chennault Air Force Base, La., and also provide protection for aircraft holding on the Chennault AFB TACAN prior to approaching the Air Force Base for landing. The Federal Aviation Agency is also considering revoking the portion of the control area extension 5 miles either side of the Lufkin VOR 113° True radial. Aircraft movement statistics indicate that insufficient use is made of this segment of the Lake Charles control area extension to warrant its continued designation.

If this action is taken, the Lake Charles, La., control area extension would be redesignated within a 40-mile radius of the Lake Charles VOR, within 5 miles either side of the Lake Charles VOR 058° True radial from the 40-mile radius area to a point 42 miles northeast of the VOR, and the adjacent area to the northwest bounded by a line beginning on the 40-mile arc at latitude 30°24′00′′ N., longitude 93°42′00′′ W.; extending to latitude 31°08′00′′ N., longitude 93°28′00′′ W.; thence to the 40-mile arc at latitude 30°43′00′′ N., longitude 93°28′00′′ W.; thence to the 40-mile arc at latitude 30°43′00′′ N., longitude 93°04′00′′ W.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division,

Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5608; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-KC-25]

### CONTROL AREAS

### Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1105 of the regulations of the Administrator, the substance of which is stated below.

The Muskegon, Mich., control area extension is presently designated within a 15-mile radius of the Muskegon County Airport. The Federal Aviation Agency has under consideration the modification of the Muskegon control area extension by adding the area southeast of Muskegon bounded on the northeast by VOR Federal airway No. 2 South, on the southeast by VOR Federal airway No. 193, and on the west by VOR Federal airway No. 55. This expansion of the Muskegon control area extension would provide protection for aircraft while being radar vectored to and from the Kent County Airport, Grand Rapids, Mich., and for aircraft holding at the Hudsonville, Mich., intersection. In addition, the description of the Muskegon control area extension presently excludes the portion which coincides with the Little Sable Point Restricted Area (R-437). This restricted area was revoked on May 7, 1959 (24 F.R. 2234). Therefore, references to this restricted area would be deleted from the description of the Muskegon control area extension.

If this action is taken, the Muskegon, Mich., control area extension would be designated within a 15-mile radius of the Muskegon County Airport (latitude 43°10′16″ N., longitude 86°14′09″ W), and within the area southeast of Muskegon bounded on the northeast by VOR Federal airway No. 2 South, on the southeast by VOR Federal airway No. 193, and on the west by VOR Federal airway No. 55.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5606; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-KC-10]

### **CONTROL AREAS**

### Modification of Extension

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1187 of the regulations of the Administrator, the substance of which is stated below.

The Jackson, Mich., control area extension is presently designated within

five miles either side of a 313° True bearing extending from the Jackson nondirectional radio beacon to a point 25 miles northwest. The Federal Aviation Agency has under consideration the modification of the Jackson control area extension by revoking the present control area extension and designating that area east of Jackson bounded on the west by VOR Federal airway No. 45, on the northeast by VOR Federal airway No. 2, on the southeast by VOR Federal airway No. 11, and on the south by VOR Federal airway No. 90 as the Jackson control area extension. The present Jackson control area extension is encompassed within a portion of the Lansing, Mich., control area extension (Section 601.1261) and the control areas associated with Victor 45 and VOR Federal airway No. 100. Revocation of the present Jackson control area extension would eliminate this unnecessary duplication of control areas. Redesignation of the Jackson control area extension within the proposed area east of Jackson would provide protection for aircraft while being radar vectored to and departing from airports in the Detroit, Mich., terminal area.

If these actions are taken, the Jackson, Mich., control area extension would be modified by revoking the present control area extension and by designating a new control area extension within the area bounded on the west by VOR Federal airway No. 45, on the northeast by VOR Federal airway No. 2, on the southeast by VOR Federal airway No. 11, and on the south by VOR Federal airway No. 90.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief. Air Traffic Management Field Division, Federal Aviation Agency, 4825 Troost Avenue, Kansas City 10, Mo. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25. D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency. Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

13, 1960.

D. D. THOMAS. Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5607; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-LA-3]

#### CONTROL AREAS

### **Modification of Extension**

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1247 of the regulations of the Administrator, the substance of which is stated below.

The Las Vegas, Nev., control area extension is designated to include the airspace south of Las Vegas bounded on the northeast by VOR Federal airway No. 135, on the southeast by VOR Federal airway No. 245, on the south by VOR Federal airway No. 210, and on the northwest by VOR Federal airway No. 21; the airspace east of Las Vegas lying within 5 miles either side of a line extending from the intersection of the Mormon Mesa, Nev., VOR 185° True radial and the Las Vegas VOR 086° True radial to the intersection of the southeast course of the Las Vegas radio range and the north course of the Needles, Calif., radio range.

The Federal Aviation Agency has under consideration modification of this control area by the addition of an extension to the southwest of Las Vegas, bounded on the north by VOR Federal airway No. 105, on the southeast by VOR Federal airway No. 8 north alternate and on the southwest by the Goffs, Calif., VOR 323° True radial. This would provide protection for aircraft utilizing an additional jet approach procedure predicated on the Las Vegas VOR and permit recovery of military jet aircraft in an area off-airways and separated from the large volume of transcontinental en route traffic on VOR Federal airways No. 8 north alternate, 21, 1508, 1510 and 1529. Also, the Federal Aviation Agency is proposing to revoke that portion of the Las Vegas control area extension east of Las Vegas based on the Mormon Mesa VOR 185° and the Las Vegas VOR 086° True radials. It has been determined that this portion of the Las Vegas control area extension is no longer required for air traffic management purposes and it appears that the revocation thereof would be in the public interest.

If this action is taken, the Las Vegas. Nev., control area extension would be redesignated as follows:

The area south of Las Vegas, Nev., bounded on the northeast by VOR Federal airway No. 135, on the southeast by VOR Federal airway No. 245, on the south by VOR Federal airway No. 210 and on the northwest by VOR Federal airway No. 21; the area southwest of Las Vegas bounded on the north by VOR Federal airway No. 105, on the southeast by VOR Federal airway No. 8 north alter-

Issued in Washington, D.C., on June nate and on the southwest by the Goffs, Calif., VOR 323° True radial.

> Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief. or the Chief, Airspace Utilization Division. Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

> The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., An informal Washington 25, D.C. Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

> This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

> Issued in Washington, D.C., on June 13, 1960.

> > D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5602; Filed, June 17, 1960; 8:45 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-FW-19]

### CONTROL AREAS

### **Modification of Extension**

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.1335 of the regulations of the Administrator, the substance of which is stated below.

The Federal Aviation Agency is considering enlarging the Lafayette, La., control area extension. The present Lafayette control area extension is designated within 5 miles either side of the 352° True radial of the Lafayette VOR, extending from the VOR to 15 miles north, and within 5 miles either side of a line bearing 007° True from the Lafayette non-directional radio beacon extending from the beacon to 15 miles north, and the airspace east of Lafayette bounded on the northwest by VOR Federal airway No. 70, on the northeast by VOR Federal airway No. 114 and on the

south by VOR Federal airway No. 20. It is proposed to expand the control area to the south within 5 miles either side of the Lafayette VOR 172° True radial extending from the VOR to 15 miles south, and to the northwest of Lafayette within a 20-mile radius of the Lafayette VOR extending clockwise from VOR Federal airway No. 20 north alternate to VOR Federal airway No. 70 north alternate. The present holding pattern airspace areas for aircraft holding at the Lafayette VOR and at the Lafayette radio beacon are not entirely within control area. This modification would provide the additional control area required for the protection of aircraft arriving and departing the Lafayette terminal area and aircraft holding at Lafayette.

If this action is taken, the Lafayette, La., control area extension would be designated northwest of Lafayette, La., within a 20-mile radius of the Lafayette VOR extending clockwise from VOR Federal airway No. 20 north alternate to VOR Federal airway No. 70 north alternate; northeast of Lafayette within the area bounded on the west and north by Victor 70 north alternate, on the northeast by VOR Federal airway No. 114, and on the south by VOR Federal airway No. 20; and within 5 miles either side of the Lafayette VOR 172° True radial extending from the VOR to 15 miles south.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief. Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5609; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-AN-9]

### **CONTROL ZONES**

#### Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and § 601.1984 of the regulations of the Administrator, the substance of which is stated below.

The present Kotzebue, Alaska, control zone is designated within a 5-mile radius of the Wien Memorial Airport. The Federal Aviation Agency is considering modifying the control zone by designating an extension northeast of the Wien Memorial Airport within 2 miles either side of the 048° True bearing from the Kotzebue radio beacon, extending from the 5-mile radius zone to a point 12 miles northeast of the radio beacon. This modification would provide protection for aircraft conducting instrument approaches to the Wien Memorial Airport during instrument flight rule conditions.

If this action is taken, the Kotzebue, Alaska, control zone would be designated within a 5-mile radius of the Wien Memorial Airport (latitude 66°53′02′′ N., longitude 162°37′33′′ W.), and within 2 miles either side of the 048° True bearing from the Kotzebue radio beacon extending from the 5-mile radius zone to a point 12 miles northeast of the radio beacon.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief. Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 440, Anchorage, Alaska. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5612; Filed, June 17, 1960; 8:47 a.m.]

#### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-FW-29]

### **CONTROL ZONES**

### Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2039 of the regulations of the Administrator, the substance of which is stated below.

The Tulsa, Okla., control zone is presently designated within a 5-mile radius of the Tulsa Municipal Airport; within 2 miles either side of the northeast course of the Tulsa radio range extending to a point 12 miles northeast of the radio range; within 2 miles either side of the north course of the Tulsa ILS localizer extending to a point 12 miles north of the Owasso, Okla., radiobeacon; and within 2 miles either side of the 088° and 268° True radials of the Tulsa VORTAC extending to a point 12 miles The Federal east of the VORTAC. Aviation Agency is considering modifying this control zone by reducing the length of the north extension based on the Owasso radiobeacon and reducing the length of the east extension based on the Tulsa VORTAC. The prescribed instrument approach procedure based on the Owasso radiobeacon and the Tulsa VORTAC have been revised so that the extension north of the Owasso radiobeacon and east of the Tulsa VORTAC are no longer required. In addition, it is proposed to designate a control zone extension within two miles either side of the ILS localizer south course extending from the 5-mile radius zone to the ILS outer marker (latitude 36°05′50" N., longitude 95°53'18.8" W.). This modification would provide protection for aircraft conducting prescribed instrument approaches to the Tulsa Municipal Airport.

If these actions are taken, the Tulsa, Okla., control zone would be designated within a 5-mile radius of the Tulsa Municipal Airport (latitude 36°12'01.3" longitude 95°53′14.8″ W.); within 2 miles either side of the ILS localizer north course extending from the 5-mile radius zone to the Owasso, Okla., radiobeacon: within 2 miles either side of the northeast course of the Tulsa radio range, extending from the 5-mile radius zone to 12 miles northeast of the radio range: within two miles either side of the Tulsa VORTAC 268° True radial, extending from the 5-mile radius zone to the VORTAC; and within two miles either side of the ILS localizer south course, extending from the 5-mile radius zone to the ILS outer marker.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be

submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5614; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-WA-152]

### **CONTROL ZONES**

### Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2111 of the regulations of the Administrator, the substance of which is stated below.

The Louisville, Ky., control zone is presently designated within a 5-mile radius of Standiford Field and within a 5-mile radius of Bowman Field extending 2 miles either side of the Standiford Field ILS localizer course from the localizer to the limits of the Fort Knox, Ky., restricted area, extending 2 miles either side of the 122° and 302° True radials of the Louisville VOR from the Standiford Field control zone to a point 10 miles southeast of the VOR and extending 2 miles either side of the 154° and 334° True radials of the Louisville VOR from the Bowman Field control zone to a point 10 miles southeast of the VOR. The Federal Aviation Agency has under consideration modification of the Louisville control zone by redesignating the extensions to the southeast and southwest, and designating an extension to the northeast. A review of the published in-

strument approach procedures to Standiford and Bowman Fields indicate that the present designated southwest extension based on the Standiford Field ILS southwest course and the extensions southeast based on the 122°/302° and the 154°/334° True radials of the Louisville VOR exceed the control zone requirements necessary to provide protection for aircraft conducting instrument approaches based on the Standiford ILS southwest course and the Louisville VOR. Therefore, it is proposed to reduce the size of the Louisville control zone extensions to the southwest and southeast by redesignating them to include only the airspace within 2 miles either side of the Standiford Field ILS southwest course extending from the Standiford 5-mile radius zone to the ILS outer marker. within 2 miles either side of the 301° True radial of the Louisville VOR extending from the Standiford 5-mile radius zone to the VOR, and within 2 miles either side of the 331° True radial of the Louisville VOR extending from the Bowman Field 5-mile radius zone to the VOR. It is also proposed to designate an extension within 2 miles either side of the Standiford Field ILS localizer northeast course extending from the Standiford 5-mile radius zone to the intersection of the localizer northeast course and the Louisville VOR 328° True radial. This extension would provide protection for aircraft conducting instrument approaches to Standiford Field utilizing the Standiford ILS northeast course.

If this action is taken, the Louisville, Ky., control zone would be designated within a 5-mile radius of Standiford Field (latitude 38°10'33'' N., longitude 85°44'12'' W.), within a 5-mile radius of Bowman Field (latitude 38°13'40" N., longitude 85°39'45" W.), within 2 miles either side of the Standiford Field ILS localizer northeast course extending from the Standiford 5-mile radius zone to the intersection of the localizer northeast course and the Louisville VOR 328° True radial, within 2 miles either side of the Standiford Field ILS localizer southwest course extending from the Standiford 5-mile radius zone to the ILS outer marker, within 2 miles either side of the 301° True radial of the Louisville VOR extending from the Standiford 5-mile radius zone to the VOR, and within 2 miles either side of the 331° True radial of the Louisville VOR extending from the Bowman Field 5-mile radius zone to the VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization

Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5616; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-FW-37]

### CONTROL ZONES

### Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2250 of the regulations of the Administrator, the substance of which is stated below.

The Tyler, Tex., control zone is presently designated within a 5-mile radius of Pounds Field, Tyler, Tex., and within 2 miles either side of the 283° True bearing of the Tyler radio beacon extending from the radio beacon to a point 5 miles northwest. The Federal Aviation Agency is considering modifying the Tyler control zone by revoking the control zone extension to the northwest based on the 283° True bearing from the Tyler radio beacon. The instrument approach procedure based on the Tyler radio beacon has been cancelled. Therefore, there is no longer a requirement for an extension based on the Tyler radio beacon. Concurrently, it is proposed to designate an extension to the northwest, based on the northwest course of the Pounds Field ILS localizer extending from the 5-mile radius zone to the outer marker, and an extension to the southeast based on the southeast course of the Pounds Field ILS localizer extending from the 5-mile radius zone to the Lake Tyler intersection (intersection of the southeast course of the Pounds Field ILS localizer and the 256° True radial of the Gregg County, Tex., VOR). This would provide protection for aircraft conducting prescribed ADF and ILS approaches to Pounds Field.

If this action is taken, the Tyler, Tex., control zone would be designated within a 5-mile radius of Pounds Field, Tyler, Tex. (latitude 32°21'17" N., longitude 95°23'55" W.); within 2 miles either side

of the northwest course of the Pounds Field ILS localizer extending from the 5-mile radius zone to the ILS outer marker; and within 2 miles either side of marker; and within 2 miles either side of the southeast course of the Pounds Field ILS localizer extending from the Columbus VOR extending from the Mussembler radius zone to the Lake Tyler intersection.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communica-tions received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5615; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-FW-10]

### **CONTROL ZONES**

### **Designation and Modification**

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to Part 601 and \$601.2286 of the regulations of the Administrator, the substance of which is stated below.

The Columbus, Ga., control zone is presently designated within a 5-mile radius of Muscogee County Airport including the airspace within 2 miles either side of the northeast course of the Columbus radio range extending southward to include a 5-mile radius of the Lawson Army Airfield, within 2 miles either side of the southwest course of the Columbus

range station to a point 10 miles southwest, and within 2 miles either side of the 150° and 330° True radials of the Columbus VOR extending from the Muscogee County Airport to a point 3 miles northwest of the VOR excluding the portion of the control zone which coincides with Restricted Area R-129. The Federal Aviation Agency has under consideration modification of the Columbus, Ga., control zone and the designation of a separate control zone for Lawson Army Airfield, Ga. A review of the published instrument approach procedures to Muscogee County Airport and Lawson Army Airfield shows that there are no published instrument approach procedures which require the presently designated control zone extension connecting Muscogee County Airport and Lawson Army Airfield. It is, therefore, proposed to revoke this extension. The instrument approach procedure based on the Columbus, Ga., VOR is being revised. This would permit the control zone extension to the northwest to be redesignated to extend from the 5-mile radius zone to the Columbus VOR. Because of the variance in weather at these airports, it is proposed to provide a separate control zone designation at Lawson Army Airfield to include the airspace within a 5-mile radius of Lawson Army Airfield and within 2 miles either side of the southwest course of the Columbus radio range extending from the radio range station, to 12 miles southwest.

If these actions are taken, the Columbus, Ga., control zone would be redesignated within a 5-mile radius of the Muscogee County Airport (latitude 32° 30'55" N., longitude 84°56'25" W.), within 2 miles either side of the 149° True radial of the Columbus VOR extending from the 5-mile radius zone to the VOR and within 2 miles either side of the 054° True bearing from the Columbus outer marker extending from the 5-mile radius zone to the outer marker, excluding that portion of the Columbus control zone which would coincide with the Fort Benning, Ga., Restricted Area (R-129). The Lawson Army Airfield, Ga., control zone would be designated within a 5-mile radius of Lawson Army Airfield (latitude 32°20′20′′ N., longitude 84°59′35′′ W.), and within 2 miles either side of the southwest course of the Columbus radio range extending from the radio range station to 12 miles southwest, excluding the portion of the Lawson control zone which would coincide with the Fort Benning, Ga., Restricted Area (R-129).

Interested persons may submit suchwritten data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, P.O. Box 1689, Fort Worth 1, Tex. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5613; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Part 601 ]

[Airspace Docket No. 60-LA-16]

# CONTROL ZONES Modification

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 601.2445 of the Regulations of the Administrator, the substance of which is stated below.

The Beale, Calif., control zone is designated within a 5-mile radius of a point centered at latitude 39°07'55" N., longitude 121°26'06" W., on Beale Air Force Base, Calif. The Federal Aviation Agency has under consideration redesignation of this control zone within a 5-mile radius of Beale AFB and within 2 miles west of and 3 miles east of the 162° True radial of the Beale AFB terminal VOR, extending from the 5-mile radius zone to the Beale terminal VOR. This would protect aircraft executing standard instrument approaches utilizing the 162° True radial of the Beale AFB terminal VOR and the 347° True radial of the Beale AFB TACAN.

If this action is taken, the Beale, Calif., control zone would be designated within a 5-mile radius of Beale Air Force Base (latitude 39°08′10′ N., longitude 121°26′05′ W.), and within 2 miles west of and 3 miles east of the 162° True radial of the Beale AFB terminal VOR extending from the 5-mile radius zone to the terminal VOR.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-

five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C., on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5617; Filed, June 17, 1960; 8:47 a.m.]

### [ 14 CFR Parts 601, 608 ]

[Airspace Docket No. 60-WA-156]

# CONTROL AREAS, CONTROL ZONES AND RESTRICTED AREAS

# Modification of Control Area Extension, Control Zone and Restricted

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to §§ 601.1270, 601.2010, and 608.46 of the regulations of the Administrator, the substance of which is stated below.

The Harrisburg, Pa., control area extension is presently designated within a 15-mile radius of the Harrisburg VOR. The Harrisburg control zone is presently designated within a 5-mile radius of Harrisburg-York State Airport and within 2 miles either side of the east and west courses of the Harrisburg radio range extending 10 miles east and west of the radio range station. The Indiantown Gap, Pa., Restricted Area (R-69) (New York Chart), is presently designated for artillery firing from the surface to 18,000 feet MSL on a continuous basis. The controlling agency for Restricted Area R-69 is the U.S. Second Army Headquarters at Fort Meade, Md. The Federal Aviation Agency has under consideration modification of the Harrisburg control area extension to include the airspace within and adjacent to the

Indiantown Gap Restricted Area (R-69) and northeast of the Tower City, Pa., VOR, bounded on the north by VOR Federal airway No. 30, on the east by the New York control area extension, on the south and southeast by VOR Federal airway No. 162 and on the west by VOR Federal airway No. 31. This modification would provide additional control area for air traffic management of aircraft arriving and departing the Harrisburg terminal area from the northeast when the Restricted Area is not in use by the Second Army, and for holding jet aircraft destined to land at Olmsted AFB.

The Federal Aviation Agency is also considering modification of the Harrisburg control zone by revoking the extensions based on the east and west courses of the Harrisburg radio range; designating an extension to the southwest within 2 miles either side of the Harrisburg-York State Airport ILS localizer southwest course, extending from the Harrisburg-York State Airport 5mile radius zone to the ILS outer marker; designating a 5-mile radius zone around Olmsted AFB; designating an extension to the west of the Harrisburg-York State Airport within 2 miles either side of the 098° True radial of the Harrisburg VOR, extending from the Harrisburg-York State Airport 5-mile radius zone to the VOR. These modifications would provide protection for aircraft conducting instrument approaches into the Harrisburg-York State Airport and Olmsted AFB during instrument flight rules weather conditions.

Concurrently, the Federal Aviation Agency is considering modification of the Indiantown Gap, Restricted Area (R-69) by redesignating its time of use from March 1 through May 31, and September 1 through November 30, annually on Saturdays and Sundays only, from 0800 to 1800 e.s.t.; and annually from June 1 to August 31, on a continuous basis. The Federal Aviation Agency, New York Air Route Traffic Control Center would be designated as the controlling agency.

If these actions are taken, the Harrisburg, Pa., control area extension would be redesignated within a 15-mile radius of the Harrisburg VOR including the airspace northeast of the Harrisburg VOR, bounded on the north by VOR Federal airway No. 30, on the east by the New York control area extension, on the south and southeast by VOR Federal airway No. 162 and on the west by VOR Federal airway No. 31. The Harrisburg control zone would be redesignated to include the airspace within a 5-mile radius of the Harrisburg-York State Air-port (latitude 40°12′59″ N.; longitude 76°51′03′′ W.), within a 5-mile radius of the Olmsted AFB (latitude 40°11′39′′ N., longitude 76°45'39" W.), within 2 miles either side of the 098° True radial of the Harrisburg VOR extending from the Harrisburg-York State Airport 5mile radius zone to the VOR and within 2 miles either side of the Harrisburg-York State Airport ILS localizer southwest course extending from the 5-mile radius zone to the ILS outer marker. The Indiantown Gap, Pa., Restricted Area (R-69) (New York Chart) time of designation would be redesignated as

March 1 through May 31, and September 1 through November 30, on Saturdays and Sundays only from 0800 to 1800 EST, annually; and annually from June 1 through August 31, on a continuous basis. The Federal Aviation Agency, New York Air Route Traffic Control Center would be designated as the controlling agency.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, Federal Building, New York International Airport, Jamaica 30, N.Y. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued at Washington, D.C. on June 13, 1960.

D. D. Thomas, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5610; Filed, June 17, 1960; 8:46 a.m.]

### [ 14 CFR Part 608 ]

[Airspace Docket No. 60-WA-155]

### RESTRICTED AREAS

### Revocation

Pursuant to the authority delegated to me by the Administrator (§ 409.13, 24 F.R. 3499), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 608.55 of the regulations of the Administrator, the substance of which is stated below.

The Fort Lewis, Wash., Restricted Area (R-503), is presently described as the area bounded by a line beginning at a point on Highway U.S. 99 at latitude 47°06'35" N., longitude 122°34'05" W.; extending southeasterly along the road to the Northern Pacific Railroad at latitude 47°05'22" N., longitude 122°30'15"

W.; thence extending southerly along the railroad to latitude 47°03′10″ N., longitude 122°31′25″ W.; thence extending northwesterly to the western edge of VOR Federal airway No. 23 at latitude 47°04′25″ N., longitude 122°35′15″ W.; thence extending northerly along the western edge of VOR Federal airway No. 23 to the point of beginning at latitude 47°06′35″ N., longitude 122°34′05″ W. The designated altitudes are surface to 1,500 feet MSL. The time of designation is continuous. The controlling agency is the Commanding General, Fort Lewis, Wash.

The Federal Aviation Agency has under consideration the revocation of this restricted area. In response to Special Airspace Regulation No. 1 report and other supplementary data, the Department of Army indicated that the maximum ordinate of the small arms and rocket firing activity conducted in Restricted Area R-503 does not exceed 90 feet above ground. In addition, it appears that the ordnance demolition activity conducted in Restricted Area R-503 could be conducted in adjacent restricted areas. Therefore, it appears that retention of this restricted area is unjustified as an assignment of airspace, and that revocation thereof would be in the public interest.

If this action is taken, Fort Lewis, Wash., Restricted Area (R-503) would be revoked.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Air Traffic Management Field Division, Federal Aviation Agency, 5651 West Manchester Avenue, P.O. Box 90007, Airport Station, Los Angeles 45, Calif. All communications received within forty-five days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Regional Air Traffic Management Field Division Chief, or the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. An informal Docket will also be available for examination at the office of the Regional Air Traffic Management Field Division Chief.

This amendment is proposed under sections 307(a) and 313(a) of the Federal Aviation Act of 1958 (72 Stat. 749, 752; 49 U.S.C. 1348, 1354).

Issued in Washington, D.C. on June 14, 1960.

D. D. THOMAS, Director, Bureau of Air Traffic Management.

[F.R. Doc. 60-5619; Filed, June 17, 1960; 8:47 a.m.]

### SMALL BUSINESS ADMINISTRA-TION

[ 13 CFR Part 107 ]

# SMALL BUSINESS INVESTMENT COMPANIES

### Notice of Proposed Rule Making

Notice is hereby given that pursuant to authority contained in sections 304 and 308, Pub. Law 85-699, 72 Stat. 694, as amended by the Small Business Investment Act Amendments of 1960, it is proposed to amend, as set forth below §§ 107.102-1(d)(2); 107.103-1, paragraph 6, definition of operating territory; 107.201-5(c); 107.304-1; 107.305-1(b) and 107.306-1 (a), (b), and (c) of Part 107 of Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations. Part 107, Subchapter B, Chapter I, of Title 13 of the Code of Federal Regulations governing the establishment and operation of small business investment companies chartered or licensed by the Small Business Administration to operate under the Small Business Investment Act of 1958, and to carry out the provisions of said Act, was published in the Federal Register on December 4. 1958 (23 F.R. 9383), and became effective on publication in the FEDERAL REG-ISTER. Prior to final adoption of such amendment of regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in triplicate, to the Small Business Investment Division, Small Business Administration, Washington 25, D.C., within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER.

Information. The amendments under consideration change the provisions of the sections referred to above so as to provide regulations in compliance with statutory changes contained in section 6 of the Small Business Investment Act Amendments of 1960. This section requires that companies shall provide a source of equity capital for incorporated small business concerns in accordance with the regulations of the Small Business Administration.

It is proposed to amend the Small Business Investment Company Regulations as follows:

The Small Business Investment Company Regulations (23 F.R. 9383), as amended (25 F.R. 1397, 2354, 3316, 5374) is hereby further amended by:

Section 107.102-1(d) (2), 107.103-1, paragraph six, definition of operating territory, 107.201-5(c), 107.305-1(b), and 107.306-1 (a), (b), (c) are amended as follows:

Wherever the words "convertible debentures", "convertible debenture bond" or "debenture bond" appear in said sections such words shall be deleted and there shall be inserted, in lieu thereof, the words "Equity Securities".

Section 107.304-1 is amended to read as follows:

### § 107.304-1 Equity Capital for incorporated small business concerns.

- (a) Each Licensee shall constitute a source of Equity Capital for incorporated small business concerns; which capital shall be supplied in a manner and under terms consistent with regulations of the Administration.
- (b) "Equity Capital" means funds received by an incorporated small business concern from a Licensee as the consideration for the issuance of Equity Securities by such concern to such Licensee.
- (c) "Equity Securities" means:
  (1) Certificates of stock of any class, granting such rights and containing such limitations as may be negotiated between the Licensee and small business concern, provided, however, that whenever any such stock provides a right to convert to another class of stock, stock purchase warrants or options shall not

be issued by the small business concern in connection with the purchase of such

securities, and

(2) Instruments which evidence a debt and which provide either an option to convert all or any portion of the outstanding principal amount of such debt into stock of the small business concern, or provide nondetachable or detachable stock purchase warrants or options.

The purchase price per share of shares available under warrants or options acquired in connection with the purchase of Equity Securities, shall be at no less than the sound book value of such shares, as defined herein, at the time the warrant or option is issued, and the total cost of such shares shall not exceed the amount of equity capital provided by the securities with which the warrant or option was issued, except as the warrant or option may provide for successive increases in the price per share of optioned shares.

- (d) Collateral may secure Equity Securities which evidence a debt.
- (e) Equity Securities which evidence a debt shall have stated maturities of not less than five years. Further, Equity Securities which evidence a debt shall not be amortized during the first five years thereof at a rate greater than the equivalent of five years' straight-line amortization.
- (f) A Licensee shall not purchase any type Equity Securities if the purpose of such purchase or acquisition is to furnish the small business concern with financing for a period of less than five years' duration.
- (g) Equity Securities which evidence a debt shall be callable at par or at negotiated premiums, in whole or in part, by the issuer on any interest payment date, upon three months' notice; provided that any right to convert the debt may be exercised prior to the effective date of such call.

- (h) Equity Securities which are convertible into stock shall be convertible at a price or prices per share not less than the sound book value of such stock as determined at the time of the issuance of said securities. "Sound book value" for the purposes hereof shall be determined through consideration of all pertinent factors including the actual value of the assets of the small business concern and the relationship of the earnings of such concern to its invested capital.
- (i) Stock purchase warrants or options shall expire not later than five years from the date of the issuance of the Equity Securities in connection with which such warrant or option is obtained.
- (j) Two or more Licensees may participate in the purchase of Equity Securities, provided that a single Licensee

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does not exceed the limitations imposed by § 107.306-1.

- (k) Wherever Equity Securities involve debt any Licensee may require small business concerns to refinance any or all of its outstanding indebtedness so that the Licensee is the only holder of any evidence of indebtedness of such concern.
- (1) Wherever Equity Securities involve debt any Licensee may require such concern to agree not to incur any additional indebtedness without first securing the approval of the Licensee and giving the Licensee the first opportunity to finance such additional indebtedness: Provided, however, That the Licensee shall allow appropriate exceptions for open account or other short-term credit.
- (m) Whenever a Licensee purchases Equity Securities of a small business concern under this section, such concern shall have the right, exercisable in whole

or in such part as such concern may elect, to become a stockholder-proprietor by investing in the capital stock of the company 5 per centum of the amount of capital so provided. The price of such stock sold by the Licensee to the small business concern under this section shall not be greater than (1) the book value determined in conformity with generally accepted accounting principles, or (2) the fair market value, whichever is the higher. Factors which may be taken into consideration in determining fair market value may include, among others, market quotations, recent public or private sales, and the liquidating value, earnings, and dividend record of the Licensee's stock.

Dated: June 14, 1960.

PHILIP McCallum,
Administrator.

[F.R. Doc. 60-5632; Filed, June 17, 1960; 8:50 a.m.]

# **Notices**

### DEPARTMENT OF THE TREASURY

Office of the Secretary
[AA 643.3]

#### SHOEBOARD FROM CANADA

Determination of No Sales at Less Than Fair Value

JUNE 13, 1960.

A complaint was received that shoeboard from Canada was being sold in the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that shoeboard from Canada is not being, nor likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. Shoeboard identical or similar to that sold for exportation to the United States is sold for home consumption in Canada in the case of most items. Comparison was, accordingly, made between purchase price and home market price. In the few instances where neither such nor similar merchandise was sold in the home market, comparison was made with third country price or constructed value.

The comparison disclosed no sales to the United States at less than home market price, third country price, or constructed value, with the exception of several items of shoeboard sold by two manufacturers prior to October 1959 and November 23, 1959, respectively. None of the sales made since the above dates have been at less than the comparable fair value, due to revisions in the manufacturers' pricing. The evidence available indicates that there is no likelihood of future sales at less than fair value. The volume of sales at a dumping price was deemed to be not more than insignificant.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

[SEAL] A. GILMORE FLUES, Acting Secretary of the Treasury.

[F.R. Doc. 60-5646; Filed, June 17, 1960; 8:51 a.m.]

## DEPARTMENT OF COMMERCE

Bureau of Foreign Commerce [File 26-434]

MAIRECO EXPORT-IMPORT G.m.b.H.
AND EMMERICH KURUC

Order Denying Export Privileges for an Indefinite Period

In the matter of Maireco Export-Import G.m.b.H., Emmerich Kuruc, 166 Waehringer Guertel, Vienna IX, Austria, Respondents; File 26–434.

The Director, Investigation Staff, Bureau of Foreign Commerce, has applied for an order denying to Maireco Export-Import G.m.b.H. and Emmerich Kuruc all export privileges for an indefinite period because of their failure to furnish responsive answers to written interrogatories served upon the said firm in connection with an investigation being conducted under authority of the Export Control Act.

This application was made pursuant to § 382.15 of the Export Regulations, and in accordance with the practice thereunder, was referred to a Compliance Commissioner of the Bureau of Foreign Commerce who, after reviewing the evidence in support thereof, has recommended that it be granted.

After reviewing and considering the Compliance Commissioner's report, the application, and the evidence submitted in support of the application, the following are my findings of fact: (1) The Maireco firm and Emmerich Kuruc, its apparent manager, were and are engaged in business and located in Vienna. Austria, where service of a subpoena upon them was impracticable; (2) a proper investigation was and is being conducted by the Investigation Staff of the Bureau of Foreign Commerce to determine whether there may have been what appeared to be unauthorized uses of general licenses and unauthorized diversions of transistors, photomultiplier tubes, and other electronic equipment exported from the United States to Maireco, the respondent herein, and to Allround Establishment, Inc., Vaduz, Liechtenstein, with whom the Maireco firm and its manager appeared to be associated: (3) written interrogatories were duly served upon the Maireco firm; and (4) Maireco did not answer the interrogatories within ten days after service as required by written and oral notification in the letter of interrogatories and at the time of service; and Maireco's answers which were subsequently furnished were not full, direct, and responsive, and did not contain satisfactory reasons for not furnishing adequate and responsive answers.

In consequence, it is concluded that the Maireco firm and its manager, Emmerich Kuruc, without reasonable cause or adequate explanation, have failed and refused to furnish responsive answers to the interrogatories duly served upon the Maireco firm as required by Section 382.15 of the Export Regulations.

Now, therefore, in view of the foregoing, and being of the opinion that the following order is reasonable and necessary to protect the public interest and to achieve effective enforcement of the Export Control Act of 1949, as amended, and regulations, licenses and orders pursuant thereto: It is hereby ordered.

I. All outstanding validated export licenses in which the respondents, Maireco Export-Import G.m.b.H. and Emmerich Kuruc, or any of them, appear or participate as purchaser, intermediate or ultimate consignee, or otherwise, are hereby revoked and shall be returned forthwith to the Bureau of Foreign Commerce for cancellation.

II. Henceforth and so long as export controls shall be in effect, the respondents, their successors or assigns, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any exportation of any commodity or technical data from the United States to any foreign destination, including Canada. Without limitation of the generality of the foregoing denial of export privileges, participation in an exportation is deemed to include and prohibit participation by them or any of them, directly or indirectly, in any manner or capacity, (a) as parties or as representatives of a party to any validated export license application, (b) in the preparation or filing of any export license application or of any document to be submitted therewith, (c) in the obtaining or using of any validated or general export license or other export control document, (d) in the receiving, ordering, buying, selling, delivering, using, or disposing in any foreign country of any commodities or technical data in whole or in part exported or to be exported from the United States, and (e) in the storing, financing, forwarding, transporting, or other servicing of such exports from the United States.

III. This denial of export privileges shall extend not only to the respondents, but also to any person, firm, corporation, partnership or business organization with which any of them may be now or hereafter related by affiliation, ownership, control, position of responsibility or other connection in the conduct of trade which may involve exports from the United States or services connected therewith. This denial of export privileges shall extend to Allround Establishment, Inc., Vaduz, Liechtenstein, which is deemed to be related to Maireco Export-Import G.m.b.H. and Emmerich Kuruc, the respondents herein, within the terms hereof.

IV. This order shall remain in effect until the respondents provide satisfactory answers, written information and documents in response to the interrogatories heretofore served upon Maireco Export-Import G.m.b.H., or give adequate reasons for their failure so to do, except insofar as this order may be amended or modified hereafter in accordance with the Export Regulations.

V. During the time when any respondent or related party is prohibited from engaging in any activity within the scope of Part II hereof, no person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior dis-

closure to and specific authorization from the Bureau of Foreign Commerce, shall do any of the following acts, directly or indirectly, in any manner or capacity, on behalf of or in any association with any such respondent or related party, or whereby any such respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, shipper's export declaration, bill of lading, or other export control document relating to any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States, by, to or for any such respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in, any exportation, reexportation, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

VI. In accordance with the provisions of § 382.11(c) of the Export Regulations, the respondents may move, at any time prior to the cancellation or termination hereof, to vacate or modify this indefinite denial order by filing an appropriate application therefor, supported by evidence, with a Compliance Commissioner. and they may request an oral hearing thereon, which, if requested, will be held before a Compliance Commissioner at Washington, D.C. at the earliest convenient date.

Dated: June 10, 1960.

FRANK W. SHEAFFER, Acting Director, Office of Export Supply.

[F.R. Doc. 60-5586; Filed, June 17, 1960; 8:45 a.m.]

### Federal Maritime Board FREE TIME AND DEMURRAGE **CHARGES**

### Notice of Agreement Filed for Approval

Notice is hereby given that the following described agreement has been filed with the Board for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement No. 6015-4, modifies the basic agreement of the parties which provides for free time and demurrage charges to be assessed cargo loaded at the Malayan Union and Colony of Singapore, Indonesia, Siam, Philippine Islands, Japan and the East Coast of Asia North of Singapore, and discharged at New York Harbor. The purpose of the modification is to (1) revise the precedure for the resolution of questions arising in regard to the determination of the free time period and the assessment of pier demurrage charges pursuant to the terminal tariff of the parties and (2) to authorize the adoption of terminal tariff rules and regulations which permit the parties to deliver import cargo prior to the payment of charges incurred thereby pursuant to the terminal tariff and, in like manner to establish reasonable conditions under which the privilege of delivery of cargo prior to payment of such charges may be withheld.

Interested parties may inspect this agreement and obtain copies thereof at the Regulation Office, Federal Maritime Board, Washington, D.C., and may submit, within 20 days after publication of this notice in the FEDERAL REGISTER, Written statements with reference to the agreement and their position as to approval, disapproval, or modification, together with request for hearing should such hearing be desired.

Dated: June 15, 1960.

By order of the Federal Maritime Board.

> JAMES L. PIMPER, Secretary.

[F.R. Doc. 60-5650; Filed, June 17, 1960; 8:51 a.m.]

### Office of the Secretary LAWRENCE H. ZAHN

### Statement of Changes in Financial **Interests**

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests as reported in the FEDERAL REGISTER during the last six months.

A. Deletions: No deletions. B. Additions: No additions.

This statement is made as of June 3. 1960.

Dated: June 8, 1960.

LAWRENCE H. ZAHN.

[F.R. Doc. 60-5639; Filed, June 17, 1960; 8:50 a.m.]

### DEPARTMENT OF THE INTERIOR

**Bureau of Land Management** 

### **ALASKA**

### Notice of Areas To Be Governed by the Several Principal Meridians

JUNE 13, 1960.

This notice defines the areas in Alaska to be governed by the several principal meridians previously established for the survey of the public lands in that State.

1. Fairbanks Meridian. The Fairbanks Meridian shall govern the survey of the public lands in the area south of that governed by the Umiat Principal Meridian; east of that governed by the Kateel River Principal Meridian; north of that governed by the Seward Meridian and the Copper River Meridian; and west of the boundary between the United States and Canada. That area is bounded as follows:

On the North by the parallel of 68° North latitude (which is the south boundary of the area governed by the Umiat Principal Meridian as defined in the notice of December 31, 1956, 22 F.R. 152).

On the West by the meridian of 153° West longitude (which is the east boundary of the area governed by the Kateel River Principal Meridian as defined in the notice of October 17, 1956, 21 F.R. 8123).

On the South (west of the 4th Guide Meridian East) by the south boundary of Township 22 South; the 4th Guide Meridian East, with theoretical offsets at the 4th and 3d Standard Parallels South: and (east of the 4th Guide Meridian East) the 2d Standard Parallel South, all under the Fairbanks Meridian.

On the East by the boundary between the United States and Canada.

2. Seward Meridian. The Seward Meridian shall govern the survey of the public lands in southwestern Alaska, including the Aleutian Islands, in the area south of that governed by the Kateel River Principal Meridian and the Fairbanks Meridian, and west of the area governed by the Copper River Meridian. That area is bounded as follows:

On the North (east of the 153d Meridian) by the south boundary of Township 22 South, Fairbanks Meridian; the 153d Meridian; and (west of the 153d Meridian) the parallel of 63° North latitude (which is the south boundary of the area governed by the Kateel River Principal Meridian as defined in the Notice of October 17, 1956, 21 F.R. 8123), except that all public land surveys on St. Lawrence Island in the Bering Sea shall be governed by the Kateel River Principal Meridian.

On the East (between the south boundary of Township 22 South, Fairbanks Meridian, and Prince William Sound) by the 3d Guide Meridian East. Seward Meridian, with theoretical offsets at the 8th, 7th, 6th, 5th, 4th, and 3d Standard Parallels North; all public land surveys on Glacier Island and Montague Island Groups in Prince William Sound shall be governed by the Seward Meridian.

3. Copper River Meridian. The Copper River Meridian shall govern the survey of the public lands in southeastern Alaska, south and east of the areas governed by the Fairbanks and Seward Meridians. That area is bounded as follows:

On the North (east of the 4th Guide Meridian East, Fairbanks Meridian) by the 2d Standard Parallel South, Fairbanks Meridian; the 4th Guide Meridian East, Fairbanks Meridian, with theoretical offsets at the 3d and 4th Standard Parallels South; and (west of the 4th Guide Meridian East, Fairbanks Meridian) the south boundary of Township 22 South, Fairbanks Meridian.

On the West (between the south boundary of Township 22 South, Fairbanks Meridian, and Prince William Sound) by the 3d Guide Meridian East, Seward Meridian, with theoretical offsets at the 8th, 7th, 6th, 5th, 4th, and 3d Standard Parallels North. Seward Meridian; all public land surveys on Glacier Island and Montague Island Groups in Prince William Sound shall be governed by the Seward Meridian.

On the South and East by the boundary between the United States and Canada.

- 4. Kateel River Principal Meridian. The Kateel River Principal Meridian shall govern the survey of the public lands in northwestern Alaska south of the area governed by the Umiat Principal Meridian, west of the area governed by the Fairbanks Meridian, and north of the area governed by the Seward Meridian. The area governed by the Kateel River Principal Meridian is defined in the Notice of October 17, 1956, 21 F.R. 8123, as lying west of 153° West longitude between 63° and 68°22' North latitude. In addition, all public land surveys on St. Lawrence Island in the Bering Sea shall be governed by this meridian.
- 5. Umiat Principal Meridian. The Umiat Principal Meridian shall govern the survey of the public lands in northern Alaska, in the area north of that governed by the Fairbanks Meridian and the Kateel River Principal Meridian. The area governed by the Umiat Principal Meridian is defined in the Notice of December 31, 1956, 22 F.R. 152, as lying east of 153° West longitude, north of 68° North latitude; and west of 153° West longitude, north of 68°22' North latitude.
- 6. Minor variations in the boundaries described herein will be permitted when the survey of the public lands will be expedited, or the administration of the lands and resources promoted thereby.

EARL J. THOMAS, Acting Director.

[F.R. Doc. 60-5624; Filed, June 17, 1960; 8:49 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 6517; FCC 60-690]

# WESTERN UNION TELEGRAPH CO. AND POSTAL TELEGRAPH, INC.

### **Order Scheduling Oral Argument**

In the matter of the application for merger of The Western Union Telegraph Company and Postal Telegraph, Inc., Docket No. 6517.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 15th day of June 1960;

The Commission having under consideration:

- (a) The Order herein released March 3, 1960, wherein the Commission set for hearing the Petition filed jointly February 1, 1960, by The Western Union Telegraph Company (Western Union), and Barnes Investing Corporation (Barnes) for appropriate action to make possible the consummation of an attached agreement for the sale of the Western Union cable operations to Barnes;
- (b) Its Memorandum Opinion and Order herein released April 22, 1960, wherein the problems resulting from the fact that Barnes had not yet obtained the funds necessary to consummate the

proposed purchase of the Western Union International Telegraph Facilities were considered; wherein the Commission set forth its position that the proposal as it then stood did not constitute a plan as required by the Commission's Order; and wherein it was made clear that further postponements in this matter to secure funds cannot be permitted;

(c) Its Memorandum Opinion and Order herein released on May 27, 1960, wherein the view was expressed that, absent the financial ability of an entity seeking to acquire the cables, there can be no divestment so that the holding of hearings on the complex issues involved in the instant plan would be "futile"; and

(d) The record herein certified to the Commission by the Hearing Examiner on June 10, 1960.

It appearing, that, at the time Barnes entered into the agreement with Western Union to acquire the cable system, it did not have the financial means to do so, nor had arrangements for such finances been made at that time;

It further appearing that since that date Barnes has made efforts to secure the financing;

It further appearing that according to the Barnes proposal, total financing in the sum of approximately \$34,000,000 is necessary;

It further appearing that according to the record, as of June 8, 1960, Barnes did not have an unqualified commitment for any part of this sum;

It further appearing that evidence was presented that one entity had made a qualified commitment to make available \$5 million on condition that another entity enter into an agreement which would require the second entity to obligate itself to acquire a total of \$3 million of the securities covered in the aforementioned \$5 million commitment;

It further appearing that counsel for Barnes offered an authorized representative of the second entity as a witness in the course of the hearing on June 8;

It further appearing that such witness testified that he, the general attorney of the second entity, had not personally seen the agreement which his company would have to sign before the commitment of the first entity became unconditional, that he did not of his own knowledge know whether such agree-ment had in fact been submitted to his company, that, while his company would act as promptly as possible, consistent with obtaining full information, he could not indicate when its studies would be completed, when the matter would be submitted to its Board of Directors, when the Board of Directors would act, or what action they would take;

It further appearing that another witness called by counsel for Barnes at the aforementioned June 8 hearing, who has been given the right to place the various securities and debentures for Barnes, felt that a further period of approximately four months would be necessary for Barnes to complete its financing;

It further appearing that almost six months have elapsed since Western Union advised the Commission that it

was accepting the Barnes offer and almost five months have elapsed since the joint petition for approval of such agreement was filed:

It further appearing that Barnes has not, as required in our Memorandum Opinion and Order herein released April 22, 1960, presented satisfactory evidence that funds are available and committed for a term sufficiently long to permit consummation of the plan for divestment presently before the Commission, and, that there is no unconditional commitment of any funds whatever; and

It further appearing that it would be helpful to the Commission to have the parties herein present their views and arguments as to the disposition that should be made of this proceeding at this time, in view of the evidence of record, particularly the present status of, and future expectations with respect to, Barnes financial arrangement to enable it to consummate the proposed divestment plan embodied in the Agreement presently before the Commission;

It is ordered, That, oral argument herein on the disposition to be made by the Commission of the pending joint petition in light of the record now before it shall be held before the Commission, en banc, at its office in Washington, D.C., beginning at 3 p.m., on the 22d day of June 1960.

It is further ordered, That counsel for Barnes shall be permitted thirty minutes to present such argument; that counsel for Western Union shall be permitted thirty minutes; that counsel for any other party which has participated in the proceedings herein shall be permitted ten minutes provided that each of the foregoing shall on or before June 20, 1960, file a Notice of Intention to Participate at such oral argument.

It is further ordered, That, any party which has participated in the proceeding herein may file no later than June 20, 1960, a written brief presenting its views and arguments as to the disposition that should be made of the proceeding.

Released: June 15, 1960.

Federal Communications
Commission,

[SEAL]

Ben F. Waple,
Acting Secretary.

[F.R. Doc. 60-5655; Filed, June 17, 1960; 8:51 a.m.]

[Docket No. 12856; FCC 60M-1034]

### WSAZ, INC., AND AMERICAN TELE-PHONE AND TELEGRAPH CO.

### **Order Continuing Hearing Conference**

In the matter of WSAZ, Incorporated, Complainant, v. American Telephone and Telegraph Company, Defendant; Docket No. 12856.

As counsel for all parties are still attempting to reach a stipulation on their joint oral request: It is ordered, This 14th day of June 1960, that the further prehearing conference now scheduled for June 21, 1960, is further continued to Wednesday, July 20, 1960, at 10 a.m., in the offices of the Commission, Washington, D.C. The Hearing Examiner expects this to be the final prehearing

conference, and that the hearing will be seasonably scheduled.

Released: June 15, 1960.

FEDERAL COMMUNICATIONS COMMISSION.

[SEAL]

BEN F. WAPLE. Acting Secretary.

[F.R. Doc. 60-5654; Filed, June 17, 1960; 8:51 a.m.]

### ATOMIC ENERGY COMMISSION

[Docket No. 50-160]

### GEORGIA INSTITUTE OF **TECHNOLOGY**

### Notice of Issuance of Construction Permit

Please take notice that no request for a formal hearing having been filed following the filing of the proposed action with the Office of the Federal Register on May 26, 1960, the Atomic Energy Commission has issued Construction Permit No. CPRR-57 authorizing Georgia Institute of Technology to construct a one megawatt (thermal) tank-type nuclear reactor on the Institute's campus in Atlanta, Georgia. Notice of the proposed action was published in the FEDERAL REGISTER on May 27, 1960, 25

Dated at Germantown, Md., this 13th day of June 1960.

For the Atomic Energy Commission.

R. L. KIRK.

Deputy Director, Division of Licensing and Regulation

[F.R. Doc. 60-5583; Filed, June 17, 1960; 8:45 a.m.1

[Docket No. 50-167]

### LOCKHEED AIRCRAFT CORP.

### Notice of Issuance of Construction Permit

Please take notice that no request for a formal hearing having been filed following the filing of the proposed action with the Office of the Federal Register on May 26, 1960, the Atomic Energy Commission has issued Construction Permit No. CPRR-56 authorizing the Lockheed Aircraft Corporation to construct a 10 watt (thermal) pool-type nuclear reactor at the Georgia Nuclear Laboratories, Air Force Plant No. 67 in Dawson County, Georgia. Notice of the proposed action was published in the FEDERAL REGISTER May 27, 1960, 25 F.R. 4701.

Dated at Germantown, Md., this 13th day of June 1960.

For the Atomic Energy Commission.

R. L. KIRK, Deputy Director, Division of Licensing and Regulation.

[F.R. Doc. 60-5584; Filed, June 17, 1960; [F.R. Doc. 60-5648; Filed, June 17, 1960; 8:45 a.m.]

### FEDERAL POWER COMMISSION

[Docket No. IT-5961]

### LUZ Y FUERZA SAN PEDRO, S.A., AND CENTRAL POWER AND LIGHT

### Notice of Application

JUNE 15, 1960.

Take notice that on May 31, 1960, Luz y Fuerza San Pedro, S.A. (Mexican Company), incorporated under the laws of the Republic of Mexico, with its principal place of business at Miguel Aleman, Tamaulipas, Mexico, and Central Power and Light Company (Central), incorporated under the laws of the State of Texas, with its principal place of business at Corpus Christi, Texas, filed a joint application for authorization, pursuant to section 202(e) of the Federal Power Act, to transmit electric energy from the United States to Mexico, Docket No. IT-5961.

The above-mentioned application indicates that Mexican Company has succeeded Jose Barrera Gonzalez with respect to ownership and operation of an electric system, which includes certain electric facilities at the international border between the United States and Mexico covered by a Presidential Permit released to Mr. Gonzalez on March 6, 1946, Docket No. IT-5960, and that Mexican Company proposes to transmit electric energy from the United States to

Mexico over such facilities.

By order issued September 1, 1955, Docket No. IT-5961 (14 FPC 948), the Commission authorized Mr. Gonzalez and Central to transmit electric energy from the United States to Mexico in an amount not in excess of 1,000,000 kwh. per year at a rate of transmission not to exceed 400 kw. over the facilities referred to above for use in and around San Pedro Roma, Tamaulipas, Mexico. The order recited that Mr. Gonzalez would purchase the energy to be exported from Central.

Mexican Company, as successor to Mr. Gonzalez, and Central seek to increase to 5,000,000 kwh. the maximum amount and to 1,000 kw. the maximum rate of electric energy which may be exported annually over the aforementioned facilities for use in and around Miguel Aleman (formerly San Pedro Roma), Tamaulipas, Mexico. Central will continue to be the supplier of the exported energy.

Any person desiring to be heard or to make any protest with reference to the application should, on or before July 6, 1960, file with the Federal Power Commission, Washington 25, D.C., a petition or protest in accordance with the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file with the Commission and available for public inspection.

> JOSEPH H. GUTRIDE. Secretary.

8:51 a.m.1

[Docket Nos. G-9547, G-10592]

### UNITED GAS PIPE LINE CO.

### Order Fixing Date for Oral Argument

JUNE 15, 1960.

On April 5, 1960, the Presiding Examiner issued a decision in the above-captioned proceedings. Exceptions thereto were filed on May 25, 1960 by Mississippi River Fuel Corporation, and on May 27, 1960 jointly by Memphis Light, Gas and Water Division and the City of Memphis, Tennessee and Mississippi Valley Gas Company. On May 27 exceptions were also filed by Texas Gas Transmission Corporation, United Gas Improvement Company, United Gas Pipe Line Company and Commission staff. Willmut Oil & Gas Company filed a "Memorandum in Nature of Exceptions" on May 31, 1960. United Gas Pipe Line also filed a motion for opportunity to present oral argument before the Commission in support of its exceptions.

The Commission finds: It is appropriate in carrying out the provisions of the Natural Gas Act that oral argument be had before the Commission in these matters as hereinafter ordered and provided.

The Commission orders:

- (A) Oral argument shall be had before the Commission on July 12, 1960, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved and the issues presented by the above-mentioned exceptions to the Presiding Examiner's decision herein.
- (B) Those parties to this proceeding who intend to participate in the oral argument shall notify the Secretary of the Commission on or before June 28, 1960 of such intention and of the time required for presentation of their argument.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Dock 60-5649; Filed, June 17, 1960; 8:51 a.m.]

[Docket Nos. RI60-208-RI60-217]

### PAN AMERICAN PETROLEUM CORP.

### Order Denying Reconsideration and **Amending Previous Order**

JUNE 14, 1960.

In the matter of Pan American Petroleum Corporation, Docket Nos. RI60-208, -209; Pan American Petroleum Corporation (Operator), et al., Docket No. R160-210; E. J. Hudson, et al., Docket No. RI60-211; Elliott Production Company, Docket No. RI60-212; Western Natural Gas Company, Docket No. R160-213; The British-American Oil Production Company, Docket No. RI60-214; Sinclair Oil & Gas Company, Docket No. RI60-215; Socony Mobil Oil Company, Inc., Docket No. RI60-216: The Shamrock Oil and Gas Corporation (Operator), Docket No. R160-217.

On May 20, 1960, Western Natural Gas Company (Western Natural) filed a motion seeking reconsideration of the "Order Amending 'Order Permitting Filing, Providing for Hearings on and Suspension of Proposed Changes in Rates, and Allowing Increased Rate to Become Effective Subject to Refund' issued in the above-entitled matter on April 22, 1960. This order amends an order issued March 25, 1960, which listed certain information under the heading "Rate in Effect." The order of April 22, 1960, provided for a footnote to the heading "Rate in Effect," which reads as follows:

The rates listed in this column are those claimed by the respondents to be the presently effective rates. The reflection of these rates in this manner is not a Commission determination that these are the presently effective legal rates.

Western Natural contends that the Commission has erred by disclaiming a determination as to the presently effective rate provided by Western Natural's FPC Gas Rate Schedule No. 17, which involves a sale to Cities Service Gas Company and which is the rate schedule involved in the filing in Docket No. RI-60-213. Western Natural states that the failure to determine the presently effective rate "prevents" it from attaching a 'satisfactory" undertaking to a motion to put the proposed increased rate into effect because the amount of potential obligation under the undertaking is unknown. There is no merit in this con-There is a pending controversy tention. involving the question of presently effective and past rates between Western Natural and Cities Service Gas Company as seller and buyer of natural gas. It would be improper to allow a suspension order to have an effect upon that controversy.

Western Natural also contends that the order of March 25, 1960, is in error in stating that Western Natural claimed that the presently effective rate for the sale in question is 11.0 cents per Mcf, and should read 11.055 cents per Mcf. An appropriate amendment is hereafter provided.

The Commission orders:

(A) The figure of "11.0" appearing on page 2 of the order herein issued March 25, 1960, under the heading "Rate in Effect" and opposite the name "Western Natural Gas Co.," is hereby amended to read "1.055."

(B) In all other respects the Motion for Reconsideration, filed May 20, 1960, by Western Natural Gas Company, is hereby denied.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5641; Filed, June 17, 1960; 8:51 a.m.] [Docket No. G-20106]

# KANSAS-NEBRASKA NATURAL GAS COMPANY, INC.

## Notice of Application and Date of Hearing

JUNE 14, 1960.

Take notice that on November 10, 1959, as supplemented on December 14, 1959, February 16, 1960, and April 18, 1960. Kansas-Nebraska Natural Gas Company, Inc. (Applicant) filed in Docket No. G-20106 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of a 1,000-horsepower compressor unit addition to its existing main line compressor station at Palco, Kansas, and for permission and approval to abandon approximately 2.2 miles of 8-inch lateral pipeline and measuring facilities near Grand Island, Nebraska, all as more fully set forth in the application and supplements which are on file with the Commission and open to public inspection.

Applicant states that the proposed 1,000-horsepower compressor unit addition is the most suitable and economical means of increasing existing natural gas service to Central Kansas Power Company's electric generating plant at Hill City, Kansas, necessitated by a 22,000 KW addition to that plant now under construction, and at the same time providing a facility available for emergency service to compress Kansas gas for further transmission into Nebraska. Applicant does not request authorization for the subject compressor unit for its operation to increase delivery to Central Kansas Power Company's Hill City plant on the grounds that said operation is entirely an intrastate service. Authorization is sought only for the emergency interstate operation of the proposed compressor unit.

The estimated cost of the proposed construction is \$236,000 which it is stated will be paid from current working capital. Proposed additional deliveries to the Hill City plant are estimated at 1,250,000 Mcf per year.

The facilities for which permission and approval to abandon are sought are stated to have been used solely for service to the Riverside Power Plant of the Nebraska Public Power System, which service was abandoned September 1, 1959, following abandonment of the plant and cancellation on July 30, 1959, of the contract between Applicant and Nebraska Public Power System for said service. Applicant states that no other customers or communities are affected and that the abandonment of the Riverside Power Plant, which had been using 50,000 Mcf of natural gas per year, has resulted in complete idleness of the 8inch line and measuring facilities to be abandoned. Applicant estimates the total cost of removing the facilities at \$6,100 and their salvage value at \$12,100.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on September 12, 1960, at 10:00 a.m., e.d.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before July 1, 1960.

1960.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5642; Filed, June 17, 1960; 8:51 a.m.]

[Docket No. RP60-131

### NORTHERN NATURAL GAS CO.

### Order To Show Cause

JUNE 14, 1960

Northern Natural Gas Company (Northern) a Delaware corporation with its principal place of business at Omaha, Nebraska, is a "natural-gas company" within the meaning of section 2(6) of the Natural Gas Act (Act) and as such is subject to the provisions thereof, and the Rules and Regulations of this Commission promulgated thereunder, Northern Natural Gas Co., Docket No. G-280, 3 FPC 967.

On November 3, 1939, this Commission issued an order, pursuant to authority granted by the Act, particularly sections 8(a), 10(a) and 16 thereof, prescribing a uniform System of Accounts for Natural Gas Companies under the Act. One of the accounts maintained under said system is Account 507, Taxes. Account 507 A provides: This account shall include the amount of Federal, State, county, municipal, and other taxes, which are properly chargeable to gas operations.

Northern is required by § 260.1 of our Regulations, to file an annual report (Form No. 2) setting forth, inter alia, the taxes it was charged during the year and which it has included in Account 507. The annual reports filed by Northern for the years 1957 and 1958 show that Northern included in Account 507 amounts of \$11,515,707 and \$9,708,000 purportedly reported as Federal Income Taxes paid during those two years.

Investigation by the staff of this Commission of Northern's books and records reveals that Northern filed, for 1957 and 1958, consolidated Federal Income Tax returns for itself and its subsidiaries: Northern Natural Gas Producing Company (Producing Company), Northern Plains Natural Gas Company and Permian Basin Pipeline Company. Said investigation also revealed that Producing Company had substantial tax losses for both the years 1957 and 1958. and as a result thereof there were reductions in the consolidated tax payable for those years in the amounts of \$1,020,000 and \$1,842,400, respectively. Northern paid Producing Company for said reductions in the consolidated taxes caused by Producing Company's tax

¹ Western Natural submitted a document entitled "Petition for Rehearing" which has been accepted for filling as a motion for reconsideration pursuant to § 1.12 of the Commission's rules of practice and procedure. A "petition for rehearing" of an interlocutory order such as is here involved, may not properly be filed (§ 1.30(e) of rules).

losses, and charged said payments to Account 507.

The aforesaid charges by Northern to Account 507 are contrary to the provisions of the Uniform System of Accounts in that Account 507 should include only actual taxes, and not the assignment of negative or credit amounts for income taxes to departments or, in the case of a consolidated return, to a subsidiary.

Northern was advised, in accordance with § 158.1 of our regulations, of its failure to keep its accounts as required by the Commission. Subsequent correspondence and conferences between representatives and this Northern's Commission's staff have failed to show any justification for Northern's departure from the provisions and requirements of the Uniform System of Accounts. Additionally, Northern has not agreed to the disposition of the matter under the shortened procedure provided for by § 158.3 of the regulations.

In view of the foregoing, it is necessary and appropriate for the purposes of administering the Natural Gas Act that Northern show cause, if any there be, for its past and continuing departure from the provisions and requirements of the Commission's Uniform System of Accounts; all in the manner hereinafter provided.

The Commission orders:

Northern Natural Gas Company shall show cause, if any there be, under oath and in writing, within thirty days from the issuance of this order, why the Commission should not find and determine:

(A) That Northern is accounting for and reporting financial data relative to taxes paid by it otherwise than by the use of the Commission's prescribed Account 507, and the provisions and requirements therefor, all as set forth above; and therefore, that as a result it has violated and is continuing to violate the accounting and reporting requirements prescribed by the Commission through its Uniform System of Accounts:

(B) That this action by Northern constitutes a willful and knowing violation of the Natural Gas Act;

(C) That Northern be required to make, keep, preserve and report its accounts in the manner prescribed by this Commission in its Uniform System of Accounts Prescribed for Natural Gas Companies subject to the provisions of the Act: and

(D) That Northern be ordered to file such substitute pages of its Annual Reports (FPC Form No. 2) for the years 1957 and 1958, to make the accounting and reporting of Federal Income Taxes paid during such years consistent and in compliance with the reporting requirements therefor as prescribed by the Commission.

By the Commission.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5643; Filed, June 17, 1960; 8:51 a.m.]

[Docket No. RI60-392 etc.]

### GULF OIL CORP. ET AL.

Order Providing for Hearings on and Suspension of Proposed Changes in Rates, and Allowing Increased Rates To-Become Effective Subject To Refund 1

June 10, 1960.

In the matter of Gulf Oil Corporation, Docket No. RI60-392; Virginia Ramsey, et al., Docket No. RI60-378; H. T. Shalett and David Crow, Docket No. RI60-393; Phillips Petroleum Company (Operator). Docket No. RI60-394; F. A. Callery, Inc., et al., Docket No. RI60-395.

The above-named Respondents have tendered for filing proposed changes in presently effective rate schedules for sales of natural gas subject to the jurisdiction of the Commission. In each filing, the natural gas is sold at 14.65 psia. with exceptions of Gulf Oil Corporation and H. T. Shalett and David Crow, which is sold at 15.025 psia. The proposed changes are designated as follows:

		Rate	Supple-		Notice of		Effective date	Date	Cents	per Mcf	Rate in effect
Docket No.	Respondent	sched- ule No.	ment No.	Purchaser and producing area	change	Date tendered	unless	pended until—	Rate in effect	Proposed increased Rate	subject to refund in Docket Nos.
RI60-392	Gulf Oil Corp	84	7	Texas Gas Trans. Corp. (Welsh Field, Jefferson Davis Parish, La.).	Undated	5-16-60	6-16-60	11-16-60	10. 747	16. 25	G-17885
RI60-378	Virginia Ramsey, et al.	2 2	34 35	Tennessee Gas Trans. Co. (Seeligson Field, Jim Wells County, Tex.).	4-20-60 4-20-60	5-16-60 5-17-60	6-16-60 6-17-60	11 9-60 11 9-60		17.24347 17.24347 ( 29.9	
RI60-393	H. T. Shallet and David Crow.	$\left\{ \begin{array}{c} 1\\1 \end{array} \right.$	3 4	Southern Natural Gas Co. (Bear Creek Field, Bienville Parish, La.).	{ 5-10-60 5-10-60	5-13-60 5-13-60	6-13-60 6-13-60	6-14-60 6-14-60		\$ 11.4 11.85	G-16244 G-16244
R160-394	Phillips Petroleum Co. (Operator).	19	17	Consolidated Gas Utilities Corp. (Lefors Gas Plt., Panhandle Field, Gray	5-13-60	4 5-16-60	6-16-60	11-16-60	14. 1792	16, 9644	G-18273
R160-395	F. A. Callery, Inc., et al.	8	8	County, Tex.). El Paso Natural Gas Co. (Pecos Valley Field, Pecos County, Tex.).	<b>5-16-60</b>	5-16-60	6-16-60	11-16-60	<sup>4</sup> 13. 34802	15.6488	G-19645

<sup>1</sup> The stated effective dates are those requested by respondents on the first day after

Gulf Oil Corporation (Gulf), in support of its proposed redetermined increased rate, states that its contract was negotiated at arm's-length. Gulf also incorporates by reference certain exhibits presented by Gulf in the section 5(a) proceedings in Docket Nos. G-9520, et al., which purport to show a cost of service of 28.92¢ per Mcf for Guli's jurisdictional sales in 1957, higher exploration and development costs, and declining production on a "per foot drilled"

Virginia Ramsey, et al (Ramsey), in support of the proposed favored-nation increased rate, submit copies of Tennessee Gas Transmission Company's letter establishing the increased rates. Ramsey also states that the contract of sale was negotiated at arm's-length and the proposed rate does not exceed the going price of gas in the area.

Phillips Petroleum Company (Operator) (Phillips), in support of its proposed renegotiated increased rate, states that

had there not been agreement between the parties for the increased rate, buyer would have been obligated to pay a higher price, or else the contract would have terminated by its own terms. In addition Phillips estimates that by May 1962 it will no longer have surplus gas for delivery to buyer. In recognition of the contingency, the letter agreement of April 18, 1960, allows buyer, at its option, upon two weeks' written notice, to reduce its maximum, minimum and daily average purchases by as much as 6,000 Mcf per day. As a result, Phillips argues that it may suffer a substantial loss in total revenue from this sale during such period.

F. A. Callery, Inc., et al. (Callery), in support of the proposed renegotiated increased rate, states that the proposed rate represents consideration for seller's agreement to eliminate the favorednation clause and such rate is supported by the cost of service study submitted by Callery with a pending motion to terminate the suspension proceedings in Docket Nos. G-16330, et al.

H. T. Shalett and David Crow (Shalett and Crow) in support of the proposed tax change, interpret the tax provisions of their rate schedule to the effect that tax reimbursement for the Louisiana severance tax will be at the same reimbursement level that they received for the Louisiana gathering tax. Southern Natural Gas Company, the purchaser, has taken the position that the tax reimbursement clause does not require reimbursement of the increased Louisiana severance tax. Shalett and Crow also proposed a periodic increased rate, which includes the questionable tax reimbursement. In view of the controversy over the proper interpretation of the tax reimbursement provision of

<sup>\*</sup>xpiration of the required thirty days' notice.

Rate decrease due to reduction of Louisiana Gathering Tax effective Dec. 1, 1958.

Rate increase due to increase of Louisiana Severance Tax effective Dec. 1, 1958.

<sup>Request waiver of notice.
Subject to 0.5 cent per Mcf for compression (where applicable) deducted by .</sup> 

<sup>1</sup> This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

the contract, and in order to assure refund in the event Southern Natural's interpretation thereof is correct, it is deemed advisable to suspend the tax change and the proposed increased rate and charge for one day until June 14, 1960, and until such further time as it is made effective in the manner prescribed by the Natural Gas Act, with only the tax reimbursement portion of the increased rate to be made effective subject to refund.

The proposed changes may be unjust. unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds:

- (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.
- (2) It is necessary and proper in carrying out the provisions of the Natural Gas Act that Supplement Nos. 3 and 4 to Shalett and Crow's FPC Gas Rate Schedule No. 1 be allowed to take effect subject to refund of the tax reimbursement portion only of the increased rates upon the timely filing of their agreement and undertaking, as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held

upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed increased rates and charges contained in the above-designated supplements.

- (B) Pending hearings and decisions thereon, each of the above-designated' supplements is hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.
- (C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.
- (D) Supplement Nos. 3 and 4 to Shalett and Crow's FPC Gas Rate Schedule No. 1 shall be effective as of June 14, 1960: Provided, however, That within 20 days from the date of the issuance of this order, Shalett and Crow shall execute and file under Docket No. RI60-393 with the Secretary of the Commission. their agreement and undertaking to comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder (prescribed by Order No. 215 and No. 215A). The agreement and undertaking shall be signed by Respondent, or if Respondent is a corporation, accompanied by proper authorization from the Board of Directors and by a

all purchases under the rate schedule · involved. Unless Respondents (Shalett and Crow) are advised to the contrary within 15 days after the filing of such agreement and undertaking, their agreement and undertaking shall be deemed to have been accepted.

(E) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 25, 1960.

By the Commission.1

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5635; Filed, June 17, 1960; 8:50 a.m.1

[Docket Nos. RI60-385-RI60-3901

### SUN OIL CO. ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates<sup>2</sup>

JUNE 10, 1960.

In the matter of Sun Oil Company, Docket No. RI60-385; Jal Oil Co., Inc. (Operator), et al., Docket No. RI60-386; Ross Walker, et al., Docket No. RI60-387; M. B. Armer, Docket No. RI60-388; Frank C. Roper, Docket No. RI60-389; Phillips Petroleum Co., Docket No. RI60-390.

The above-named Respondents have signed by a responsible officer thereof presently effective rate schedules for tendered for filing proposed changes in sales of natural gas subject to the jurisdiction of the Commission. The procertificate showing service of copies upon \( \) posed changes are designated as follows:

	Respondent -	Rate sched- ule No.	Purchaser and producing area	Notice of change dated—		Effective date unless sus- pended 1	Date sus- pended until—	Cents per Mcf		Rate in	
Docket No.					Date tendered			Rate in effect	Proposed increased Rate	subject to refund in Docket Nos.	
RI60-385	Sun Oil Co	100	4	West Lake Natural Gasoline Co., South Lake Trammell and Nena Lucia Fields, Nolan County, Tex.	5-10-60	5-12-60	6-23-60	4 6-24-60	6. 9918	² 8. 5	R160-56
RI60-386	Jal Oil Co., Inc., (Operator), et al.	7	4	El Paso Natural Gas Co., Langlic- Mattix and Crosby Devonian Fields, Lea County, N. Mex.	5-10-60	5-18-60	6-13-60	11-13-60	<sup>8</sup> 10. 5	<sup>1</sup> 15. 55986	G-14005
RI60-387	Ross Walker, et al	1	1	United Gas Pipe Line Co., Maxie and Pistol Ridge Fields, Forrest County, Miss.	5-10-60	5-13-60	6-13-60	11-13-60	20.0	23.0	
RI60-388	M. B. Armer	1	1	Zenith Gas System, Inc., Barber County, Kans.	Undated	5-1360	6-13-60	11-13-60	10.0	² 12. 0	
R160-389	Frank C. Boper	1	2	United Gas Pipe Line Co., Maxie and Pistol Ridge Fields, Forrest, Lamar,	5-9-60	5-13-60	6-13-60	11-13-60	20.0 .	<sup>8</sup> 23. 0	
RI60-390	Phillips Petroleum Co	316	3	and Pearl River Counties, Miss. West Lake Natural Gasoline Co., No- lan County, Tex.	5-11-60	5-13-60	6-23-60	4 6-24-60	6. 9918	*8.5	G-20349

<sup>&</sup>lt;sup>1</sup> The stated effective dates are those requested by respondents, or the first day after the expiration of statutory notice, whichever is later.

<sup>2</sup> Pressure base is 14.65 psla.

Sun Oil Company (Sun) and Phillips Petroleum Company (Phillips) propose revenue-sharing type increased rates for gas sold to West Lake Natural Gasoline Company (West Lake) in Nolan County, West Lake resells the subject gas, after treating, to El Paso Natural Gas Company (El Paso) and pays Sun and Phillips (and other producers) 50 percent of the resale rate it receives from from El Paso for the residue gas with guaranteed floor prices in cents per Mcf provided for in the producers' contract. The subject increases are based upon West Lake's favored-nation increased rate which has been suspended in Docket No. RI60-30 until June 23, 1960.

<sup>4</sup> Or from such later date as the suspended resale rate of West Lake Natural Gasoline Co. is made effective in Docket No. R160-30 in the manner prescribed by the Natural Gas Act.

Includes 0.4467 cent per Mcf for compression deducted by buyer.

Sun and Phillips, in support of their proposed increased rates, cite the contract provisions and West Lake's suspended increased rate. Sun states that its contract resulted from arm's-length bargaining and that the increased price does not exceed the value of the gas. Phillips states that the increased price is just and reasonable.

Jal Oil Company, Inc. (Operator), et al., propose a renegotiated rate increase for gas sold to El Paso Natural Gas Company (El Paso) in the Langlie-Mattix and Crosby Devonian Fields, Lea County, New Mexico. The subject renegotiated increased rate results from an October 26, 1959, contract amendment entered

into pursuant to El Paso's contract renegotiation program for purchases of gas in the Permian Basin area.

In support of the proposed renegotiated increased rate, Jal submits copies of the renegotiated agreement and cites provisions thereof and states that the amendment resulted from arm's-length bargaining. Jal states that the proposed increased rate is not in excess of other

Pressure base is 15.025 psia.

<sup>&</sup>lt;sup>1</sup> Dissenting opinion of Commissioner Kline filed as part of the original document.

<sup>&</sup>lt;sup>2</sup> This order does not provide for the consolidation for hearing or disposition of the several matters covered herein, nor should it be so construed.

rates paid for gas by El Paso in this area and is just and reasonable. Jal also states that the increased rate is needed to meet increased costs and to provide incentive for further exploration.

M. B. Amer (Amer) in support of its proposed redetermined increased rate, cites its contract provisions and states that the proposed price is just and reasonable in relation to the price paid for similar gas in the area and is a fair price for the gas. Amer also states that operating costs have increased.

Ross Walker, et al. (Walker) and Frank C. Roper (Roper) propose redetermined increased rates for gas sold to United Gas Pipe Line Company (United Gas).

In support of his proposed increased rate, Roper merely cites the contract provisions and a letter from United Gas informing him of the redetermined price. Walker, in support of his proposed increased rate, submits copies of the letter of agreement wherein Walker and United Gas agree to the increased price, and states that prices in the general area are in excess of the total price here

The changes in rates and charges so proposed may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

The Commission finds: It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon hearings concerning the lawfulness of the several proposed changes and that the above-designated supplements be suspended and the use thereof deferred as hereinafter ordered.

The Commission orders:

proposed.

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), public hearings shall be held upon dates to be fixed by notices from the Secretary concerning the lawfulness of the several proposed changes in rates and charges contained in the above-designated supplements.

(B) Pending hearings and decisions thereon, each of the above-designated supplements are hereby suspended and the use thereof deferred until the date indicated in the above "Rate Suspended Until" column, plus footnotes thereto, and thereafter until such further time as it is made effective in the manner prescribed by the Natural Gas Act.

(C) Neither the supplements hereby suspended, nor the rate schedules sought to be altered thereby, shall be changed until these proceedings have been disposed of or until the periods of suspension have expired, unless otherwise ordered by the Commission.

(D) Notices of intervention or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules

of practice and procedure (18 CFR 1.8 and 1.37(f)) on or before July 25, 1960.

FEDERAL REGISTER

By the Commission.1

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5636; Filed, June 17, 1960; 8:50 a.m.]

[Docket No. E-6946]

### NORTHERN STATES POWER CO.

### Notice of Application

JUNE 14, 1960.

Take notice that on June 9, 1960, an application was filed with the Federal Power Commission pursuant to section 204 of the Federal Power Act by Northern States Power Company ("Applicant"), a corporation organized under the laws of the State of Wisconsin and doing business in the State of Minnesota, with its principal business office at Eau Claire, Wisconsin, seeking an order authorizing the issuance of not to exceed \$9,000,000 in aggregate principal amount of Promissory Notes. Applicant proposes to issue the aforesaid Notes to commercial banks in varying amounts beginning June 1960 and ending December 1960. Each note will be issued for various periods of time but no note will mature more than 12 months after date of issue and no note will mature after December 31, 1961. Each note will bear interest at the particular prime rate at the time and place of making. The funds received from the issuance of the aforesaid notes will be used by Applicant to refund outstanding notes. In addition to this refunding borrowing, the proceeds from the proposed \$9,000,000 of Notes, or such portion as may be borrowed from time to time, will be applied by Applicant as interim financing to the payment of the costs of additions, betterments and improvements to Applicant's properties.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 5th day of July 1960, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5644; Filed, June 17, 1960; 8:51 a.m.]

[Docket No. E-6945]

### ROCKLAND ELECTRIC CO.

### Notice of Application

JUNE 14, 1960.

Take notice that on June 8, 1960, an application was filed with the Federal

Power Commission pursuant to section 204 of the Federal Power Act by Rockland Electric Company (Applicant), a corporation organized under the laws of the State of New Jersey and doing business and domesticated in the State of New Jersey, with its principal business office at Nyack, New York, seeking an order authorizing the issuance of \$2,700,000, principal amount outstanding at any one time (including as a part of that principal amount \$250,000 presently outstanding) of short-term unsecured Promissory Notes. The Notes are to be issued to commercial banks or similar institutions from time to time and are to mature not later than one year from the date of issue thereof and in no event later than December 31, 1961. The proposed Notes will bear interest at a maximum rate of not over 1/4 of 1 percent in excess of the prime rate at the time and place of borrowing. Applicant states that the proceeds from the issuance of the Promissory Notes will be used for the construction, completion, extension, or improvement of facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before the 5th day of July 1960, file with the Federal Power Commission, Washington 25, D.C., petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). The application is on file and available for public inspection.

JOSEPH H. GUTRIDE, Secretary.

[F.R. Doc. 60-5645; Filed, June 17, 1960; 8:51 a.m.]

[Docket No. E-6943]

# DEPARTMENT OF THE INTERIOR AND SOUTHWESTERN POWER ADMINISTRATION

# Notice of Request for Approval of Rates and Charges

JUNE 10, 1960.

Notice is hereby given that the United States Department of the Interior, on behalf of the Southwestern Power Administration, has filed with the Federal Power Commission for confirmation and approval, pursuant to the provisions of the Flood Control Act of 1944 (58 Stat. 887), the schedule of rates and charges set forth below for the sale of the total output of the Narrows Dam Project to the Tex-La Electric Cooperative, Inc. Approval is requested for the period from September 30, 1960 through June 30, 1965.

Any person desiring to make comments or suggestions for Commission consideration with respect to the attached schedule of rates and charges, should submit the same in writing on or before July 5, 1960, to the Federal Power Commission, Washington 25, D.C.

JOSEPH H. GUTRIDE, Secretary.

<sup>&</sup>lt;sup>2</sup> Commissioner Kline dissenting as to the suspension of the filing in Docket No. RI60-

5554

### **NOTICES**

#### NARROWS DAM PROJECT

#### SOUTHWESTERN POWER ADMINISTRATION

Article I, Section 3 of the Agreement between the United States of America and the Tex-La Electric Cooperative, Inc. (Contract No. 14-02-0001-921) for the sale of power and energy from Narrows Dam Project pertaining to rates and charges submitted for Federal Power Commission confirmation and approval is as follows:

#### ARTICLE T

SALE OF NARROWS DAM POWER AND ENERGY
BY SPA

SEC. 3. Compensation to SPA for Narrows Dam Power and Energy. (a) It is recognized by the parties hereto that the total and most efficient utilization of the Narrows Dam Power and Energy is dependent upon the installation of a third 8,500 kilowatt hydroelectric generating unit at the Narrows Dam, and that such third generating unit will be installed as soon as necessary funds are made available by the Congress. Accordingly, during the term of this Agreement after a third 8,500 kilowatt hydroelectric generating unit is installed and ready for commercial operation at the Narrows Dam, Tex-La shall pay to SPA the sum of \$367,992 per year, payable at the rate of \$30,666 per month, as compensation for the Narrows Dam Power and Energy purchased under Section 1 of this Article I.

(b) During the term of this Agreement until a third 8,500 kilowatt hydroelectric generating unit is installed and ready for commercial operation at the Narrows Dam, Tex-La shall pay to SPA the sum of \$25,000 per month as compensation for the Narrows Dam Power and Energy purchased under Section 1 of this Article I.

(c) If by reason of an Uncontrollable Force (as defined in Section 3 of Article VI), for a period of thirty consecutive days or longer, SPA is unable to deliver Narrows Dam Power and Energy as scheduled by Tex-La or its authorized representative, the compensation owed by Tex-La for such period under Subsection (a), above, shall be reduced by an amount computed under the formula.

### $R = \frac{C}{M} \times \frac{U}{G} \times D,$

with the factors defined as follows:

R=The amount of the reduction in compensation owed by Tex-La.

C=The total compensation due SPA each month.

M=30.4 (the average number of days in each month of a calendar year).

U=The number of generating units inoperable by reason of an Uncontrollable Force during the period of inability.

G=The number of generating units installed and ready for commercial operation.

D=The number of days during which SPA was unable to deliver Narrows Dam Power and Energy as scheduled.

It is recognized, however, that the amount of water available for the generation of Narrows Dam Power and Energy at any particular time is and will be dependent upon the manner in which the delivery of power and energy has previously been scheduled, and it is agreed that if such inability of SPA to deliver power and energy as scheduled is caused by a failure of water supply which is the result of improvident scheduling by Tex-La or its authorized representative, then, and in that event, Tex-La shall not be entitled to any credit for the period or periods of such inability as provided in this Subsection (c).

Sections Referred to in Article I, Section 3 above, are as follows:

#### ARTICLE I

SALE OF NARROWS DAM POWER AND ENERGY
BY SPA

SECTION 1. Sale of Narrows Dam Power and Energy to Tex-La. (a) SPA shall sell and deliver to Tex-La, and Tex-La shall purchase and receive, all the electric power and energy generated at the Narrows Dam Reservoir Project in the State of Arkansas (hereinafter referred to as "Narrows Dam Power and Energy") which is delivered by the Secretary of the Army to the Secretary of the Interior pursuant to Section 5 of the Flood Control Act of 1944.

### ARTICLE VI

#### GENERAL PROVISIONS

SEC. 3. Definition of Uncontrollable Force. For the purpose of this Agreement, the term "Uncontrollable Force" shall mean any force which is not within the control of the parties hereto, and which by exercise of due diligence and foresight could not reasonably have been avoided, including, but not limited to, failure of facilities, flood, earthquake, storm, lightning, fire, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, collision, or restraint by court or public authority having jurisdiction. Neither party hereto shall be considered to be in default or breach with respect to any obligation under this Agreement if prevented from fulfilling such obligation by reason of an Uncontrollable Force.

[F.R. Doc. 60-5620; Filed, June 17, 1960; 8:47 a.m.]

### FOREIGN-TRADE ZONES BOARD

[Order 49]

# BOARD OF COMMISSIONERS OF PORT OF NEW ORLEANS

## Application To Expand Boundaries of Foreign Trade Zone

In the matter of the application of the Board of Commissioners of the Port of New Orleans, grantee, to expand the boundaries of Foreign-Trade Zone No. 2.

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998-1003; 19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following order which is promulgated for the information and guidance of all concerned:

Whereas, the Board of Commissioners of the Port of New Orleans, as Grantee of Foreign-Trade Zone No. 2, filed an application dated May 2, 1960 for permission to extend the boundaries of Foreign-Trade Zone No. 2 to include Runway #1 within zone limits, so that fewer gates will be needed for normal business operation. The runway is west of and adjoins the downstairs limit of the zone.

Now, therefore, the Foreign-Trade Zones Board, after full consideration and a finding that the proposal is in the public interest, hereby orders:

That the boundaries of Foreign-Trade Zone No. 2 be, and they are hereby reestablished, to include within the zone, Runway #1, which is west of and adjoins the downstairs limit of Foreign-Trade Zone No. 2, New Orleans, Louisiana, in

conformity with Exhibits Nos. 1, 8, and 10(b), dated May 2, 1960.

It is found that compliance with the notice, public rule making procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary in connection with the issuance of this Order, because its application is restricted to one foreign-trade zone, and is of a nature that it imposes no burden on the parties of interest. The effective date of this Order is, therefore, upon publication in the Federal Register.

Signed at Washington, D.C., this 14th day of June 1960.

FOREIGN-TRADE ZONES BOARD,
[SEAL] FREDERICK H. MUELLER,
Secretary of Commerce, Chairman and Executive Officer,
Foreign-Trade Zones Board.

[F.R. Doc. 60-5640; Filed, June 17, 1960; 8:50 a.m.]

# APPLICATION FOR A FOREIGN-TRADE ZONE IN TOLEDO, OHIO

### Notice of Hearing

An application has been made to the Foreign-Trade Zones Board by the Toledo-Lucas County Port Authority, a public corporation and an instrumentality of the State of Ohio, for the privilege of establishing, operating, and maintaining a foreign-trade zone at the Port of Toledo, Toledo, Ohio, pursuant to the Foreign-Trade Zones Act of June 18, 1934, as amended (48 Stat. 998–1003; 19 U.S.C. 81a–81u).

The Executive Secretary of the Foreign-Trade Zones Board (pursuant to the Board's Regulations) 1 has designated E. E. Schnellbacher, Director, Office of Trade Promotion, Bureau of Foreign Commerce, Department of Commerce, as examiner to investigate the application and accompanying exhibits for compliance with said Regulations; and said application of the Toledo-Lucas County Port Authority having been found to be in order, the Executive Secretary has designated as an Examiners' Committee, said E. E. Schnellbacher, Chairman; Miss Albina R. Cermak, Collector of Customs, Cleveland, Ohio; and Col. Woodrow W. Wilson, U.S. Army Engineer, Army Engineer District, Detroit, Michigan, in whose jurisdiction the proposed zone is to be located, to make an investigation of the application and report thereon to the Board for final action.

Notice is hereby given, pursuant to the Foreign-Trade Zones Act, and the Board's Regulations, that a public hearing on the application of the Toledo-Lucas County Port Authority will be held by the Examiners' Committee beginning at 10:00 a.m. Eastern Daylight Savings Time, on July 20, 1960, in the Toledo Area Chamber of Commerce Auditorium, 218 Huron Street, Toledo, Ohio.

<sup>&</sup>lt;sup>1</sup> See Title 15 Code of Federal Regulations, Part 400, Article 13, Rules of Procedure and

General plans showing the location of the proposed foreign-trade zone may be examined at the Office of the Toledo-Lucas County Port Authority, Toledo, Ohio, the Office of the Collector of Customs at Cleveland, Ohio, the Department of Commerce Field Office, Federal Reserve Bank Building, Cleveland 1, Ohio, or at the Office of the Executive Secretary of the Foreign-Trade Zones Board, Room 3414, Main Commerce Building, Washington, D.C.

In brief, these plans propose that: the Toledo foreign-trade zone will be located on a part of the 65 acre tract of the Port Authority Facility No. 1 on the east bank of the Maumee River. The proposed zone area is located 500 feet back from the river front and all cargo handled by water will be deposited on the wharf currently operated by Toledo Overseas Terminals, Inc., a stevedoring company which is also a tenant of the Port Authority. Cargo destined for the Foreign-Trade Zone will be transported in bond from the wharf to the zone area. Port Authority Facility No. 1 has road connections with the street system of the City of Toledo, and is also served by a side track from the mainline of the Chesapeake and Ohio Railway Company. The proposed zone will have its own rail spur, and connections to all major rail lines in the Toledo area can be made switching.

This public hearing is for the purpose of informing interested parties concerning the application and affording them on opportunity to express their views, and obtaining other data useful to the Foreign-Trade Zones Board. The immediate concern of the Examiners' Committee is to determine whether or not the facilities and appurtenances which are proposed to be provided are sufficient. Particular attention is called to the fact that the instant application is the only one to be considered at this time. The question of its suitability is up for discussion, not the suitability of some other zone site.

All interested parties are invited to be present or represented at the hearing; particularly those who may be affected by the proposed grant. An opportunity to be heard (either in person or by duly appointed representatives; either by appearance or by sending a written or telegraphic statement) will be given to persons or groups who have manifested their interest in this application, by complying with the following requirements:

- 1. A written or telegraphic request for an opportunity to be heard shall be filed before noon on July 13, 1960 at the Office of the Executive Secretary of the Foreign-Trade Zones Board, Room 3414, Main Commerce Department Building, and shall indicate the number of witnesses, the general character of evidence and the approximate amount of time required.
- 2. Such request shall include (a) the name of any person seeking to speak at the hearing, and (b) the persons or groups he represents.

In the discretion of the Examiners' Committee, persons who have not complied with the foregoing may be permitted, at any time prior to the closing of the hearing, to file written statements in quadruplicate regarding the application under consideration. Such written statements should be condensed as much as possible.

For accuracy of record, and for file with the report and recommendations of the Examiners' Committee, all important facts and arguments should be submitted in writing, as these together with the record, will be forwarded for consideration by the Foreign-Trade Zones Board in Washington.

You are requested to communicate the foregoing to any persons known by you to be interested in the matter who, not being known to the Committee, do not receive a copy of this notice.

Dated: June 16, 1960.

JOSEPH M. MARRONE, Executive Secretary.

[F.R. Doc. 60-5696; Filed, June 17, 1960; 8:51 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[File Nos. 31-626, 59-40]

## CENTRAL PUBLIC UTILITY CORP. ET AL.

Notice of Filing of Applications for Fees and Expenses and Notice of and Order for Hearing on One Such Application

JUNE 13, 1960.

In the matters of Central Public Utility Corporation, File No. 31-626; Central Public Utility Corporation et al., File No. 59-40.

The Commission having on April 3, 1959, entered an order modifying an outstanding order issued pursuant to section 11(b) (2) of the Public Utility Holding Company Act of 1935 ("Act") and exempting Central Public Utility Corporation ("Cenpuc") as a holding company and every subsidiary company thereof as such from the provisions of the Act (Holding Company Act Release No. 13970), and having in said order imposed certain conditions and reserved jurisdiction with respect to the fees and expenses of Cenpuc, of the common stockholders committee, and of their respective agents and attorneys:

The conditions of said order of April 3, 1959, having been satisfied; and

The Commission having notified all participants in the proceedings that applications for final allowances of fees and expenses should be filed on or before January 1, 1960, and applications having been filed pursuant to such notice:

Notice is hereby given that applications for the allowance of fees and reimbursement of expenses have been filed by the following persons in the indicated amounts:

Claimant and capacity	Fees	Expenses
Duke and Landis, counsel for	2000	Law politoco
CenpucKenneth W. Moroney, Cenpuc's	\$24,000.00	\$2,869.50
tax counsel	2, 500, 00	********
Middle West Service Co., finan- cial analysts employed by Cen-	.,	
puc	12, 500. 00	1, 403. 87
Public Common Stock Commit- tee: Percival E. Jackson and		,
Theodore N. Tarlau, counsel.	25, 000. 00	1, 194. 67
D. Perry King, accountant Harold F. Scattergood, member	1, 500.00	
and security analyst	1, 200.00	310.00
Perry King, member and sec- retary	1,000.00	
· · · · · · · · · · · · · · · · · · ·	1,000.00	

Notice is further given that any interested person may, not later than June 28, 1960, request in writing that a hearing be held with respect to any or all of the above-listed claims, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the applications which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the aforesaid claims may be approved and jurisdiction thereover released pursuant to the applicable provisions of the Act, or the Commission may take such other action as it may deem appropriate.

Notice is further given that Reis & Chandler, Inc., a firm of financial analysts employed by Cenpuc, has filed an application requesting \$13,815.00 for services and \$660.42 for disbursements.

It appearing to the Commission that it is appropriate in the public interest and in the interest of investors that a hearing be held with respect to said application:

It is ordered, That a hearing be held with respect to said application of Reis & Chandler, Inc., which hearing shall commence on July 7, 1960, at 10:00 a.m., at the office of the Securities and Exchange Commission, 425 Second Street NW., Washington 25, D.C. Any person who is not already a party, or who has not been granted leave to participate in the above-entitled proceedings, and who desires to be heard or otherwise wishes to participate in such hearing shall file with the Secretary of this Commission on or before July 1, 1960, a request relative thereto as provided in Rule XVII of the Commission's rules of practice.

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at such hearing. The officer or officers so designated are hereby authorized to exercise all powers granted to the Commission under section 18(c) of the Act and to a hearing officer under the Commission's rules of practice.

The Division of Corporate Regulation of the Commission having advised the Commission that it has made a preliminary examination of said application and that on the basis thereof the following matters and questions are presented, without prejudice, however, to the presentation of additional matters and questions for examination;

- 1. Whether the services and disbursements for which remuneration is sought are compensable and whether it is lawful or appropriate to grant any allowances for fees and expenses to the person making such claims:
- 2. Whether the requested amounts for fees and for expenses were incurred in rendering services which were necessary and whether the requested amounts are reasonable: and
- 3. Whether there are any other factors apart from the nature and value of the services rendered and the capacity in which rendered which would make the request for compensation and reimbursement improper.

It is further ordered, That particular attention be directed at said hearing to the foregoing matters and questions.

It is further ordered, That the Secretary of the Commission shall serve a copy of this order by registered mail on Consolidated Electronics Industries Corp., the successor corporation, by merger, to Cenpue, and on Reis & Chandler, Inc.; and that notice of the entry of this order shall be given to all other persons by a general release of the Commission, which shall be distributed to the press, mailed to the persons on the mailing list for releases issued under the Act, and published in the Federal Register.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-5628; Filed, June 17, 1960; 8:49 a.m.]

[File No. 1-3865]

# SKIATRON ELECTRONICS AND TELEVISION CORP.

### **Order Summarily Suspending Trading**

JUNE 14, 1960.

The common stock, par value 10 cents per share of Skiatron Electronics and Television Corporation, being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors: and

the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fradulent, deceptive-or manipulative acts or practices, with the result that it will be unlawful under section 15(c) (2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19 (a) (4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fradulent,

deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, June 15, 1960, to June 24, 1960, both dates inclusive.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-5629; Filed, June 17, 1960; 8:49 a.m.]

[File No. 70-3885]

### NEW JERSEY POWER & LIGHT CO.

### Notice of Proposed Issuance and Sale at Competitive Bidding of Principal Amount of Bonds

JUNE 13, 1960.

Notice is hereby given that New Jersey Power & Light Company ("New Jersey"), a public-utility subsidiary of General Public Utilities Corporation ("GPU"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application on file in the offices of the Commission for a statement of the proposed transactions which are summarized as follows:

New Jersey proposes to issue and sell, pursuant to the competitive bidding requirements of Rule 50, \$5,000,000 principal amount of First Mortgage Bonds ("New Bonds"), \_\_ percent Series, to be dated as of July 1, 1960 and to mature July 1, 1990. The interest rate on the New Bonds (which shall be a multiple of ½ of 1 percent) and the price, exclusive of accrued interest, to be paid by New Jersey (which shall not be less than 100 percent nor more than 102¾ percent of the principal amount thereof) will be determined by the competitive bidding.

The New Bonds are proposed to be issued under the Mortgage and Deed of Trust, dated as of March 1, 1944 of New Jersey to the Morgan Guaranty Trust Company of New York (formerly Guaranty Company of New York), Trustee, as heretofore supplemented and amended and as proposed to be supplemented and amended by the Seventh Supplemental Indenture.

The proceeds from the sale of the New Bonds will be applied to the cost of New Jersey's post-1959 construction program estimated at \$7,750,000 or to reimburse its treasury for expenditures for that purpose.

New Jersey proposes to issue the \$5,000,000 principal amount of 1990 Series Bonds against a like amount of cash, which is to be deposited with and held by the Trustee pending withdrawal, from time to time, against bondable value of property additions. As of March 31, 1960, New Jersey had available for the purpose approximately \$4,400,000 of bondable value of property additions, on the basis of which it could withdraw approximately \$2,640,000 of the funds thus to be deposited with the Trustee.

It is stated that the Board of Public Utility Commissioners of the State of

New Jersey, the State in which New Jersey is organized and doing business, has jurisdiction over the proposed transaction and that an order of that Commission approving the proposed issuance and sale of the new bonds will be filed by amendment. The application further states that no other State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The expenses to be incurred by New Jersey in connection with the proposed transactions are estimated to aggregate \$50,000, including registration fees of \$2,704, Federal issue tax of \$5,500, printing expenses of \$22,000, accounting fees of \$3,200, fees to indenture trustee of \$3,000, legal fees and expenses of company counsel, Alfred A. Rochester of \$2,800 and Berlack, Israels & Liberman of \$5,000, and miscellaneous cost of \$5,796. The estimated fees of Naylon, Foster, Dean & Aronson, counsel for the underwriters, which are to be paid by the underwriters, is estimated at \$6,500.

Notice is further given that any interested person may, not later than July 5, 1960, request this Commission in writing that a hearing be held in respect of the application, stating the nature of his interest, the reasons for such request, and the issues of fact or law which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the rules and regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof, or take such other action as it may deem appropriate.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

[F.R. Doc. 60-5630; Filed, June 17, 1960; 8:49 a.m.]

# OFFICE OF CIVIL AND DEFENSE MOBILIZATION

**MISSOURI** 

#### Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, Executive Order 10737 of July 1, 1958, and Executive Order 10782 of September 6, 1958 (18 F.R. 407, 22 F.R. 8799, 23 F.R. 5061, and 23 F.R. 6971); by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855–18559), as amended; and in furtherance of a declaration by the President in his letter to me dated April 20, 1960, reading in part as follows:

I hereby determine the damage in the various areas of the State of Missouri, adversely affected by recent and current floods, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal Government to supplement State and local efforts.

I do hereby determine the following. areas in the State of Missouri to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 20, 1960:

The counties of:

Johnson. Adair. Lafavette. Andrew. Lewis. Atchison. Lincoln. Boone. Buchanan. Linn. Livingston. Butler. Caldwell. Marion. Callaway. Mercer. Cape Girardeau. Mississippi. Carroll. Moniteau. Montgomery. Cass. Chariton. New Madrid. Clark. Nodaway. Clay. Osage. Clinton. Pemiscot. Cole. Perry. Cooper. Pike. Daviess. Platte. De Kalb. Ralls. Randolph. Dunklin. Franklin. Ray. St. Charles. Gasconade. Ste. Genevieve. Gentry. Grundy. Saline. Harrison. Scott. Stoddard. Holt. Howard. Warren. Jackson. Wayne. Jefferson. Worth.

Dated: June 8, 1960.

LEO A. HOEGH, Director.

[F.R. Doc. 60-5585; Filed, June 17, 1960; 8:45 a.m.]

### INTERSTATE COMMERCE COMMISSION

### **FOURTH SECTION APPLICATIONS FOR RELIEF**

JUNE 15, 1960.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15. days from the date of publication of this notice in the FEDERAL REGISTER.

### LONG-AND-SHORT HAUL

FSA No. 36325: Substituted service-C&O for Midwest Haulers, Inc. Filed by Midwest Haulers, Inc., (No. 26), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Detroit, Mich., and Buffalo, N.Y., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Haulers, Inc., MF-I.C.C. 22.

FSA No. 36326: Substituted service-Wabash for Midwest Hauling Inc. Filed by Midwest Haulers, Inc. (No. 28), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Toledo, Ohio and East St. Louis, Ill., on traffic originating at or destined to such points or points beyond as described in the application.

Tariff: Supplement 6 to Midwest Haulers, Inc., MF-I.C.C. 22.

FSA No. 36327: Substituted service-Wabash for Commercial Freight Lines, Inc. Filed by Commercial Freight Lines, Inc. (No. 2), for interested carriers. Rates on property loaded in trailers and transported on railroad flat cars between Chicago, Ill., and Kansas City, Mo., on traffic originating at or destined to such points or points beyond as described in the application.

Grounds for relief: Motor-truck competition.

Tariff: Supplement 6 to Midwest Haulers, Inc., MF-I.C.C. 22.

By the Commission.

[SEAL]

HAROLD D. McCoy. Secretary.

[F.R. Doc. 60-5637; Filed, June 17, 1960; 8:50 a.m.]

[Notice 331]

### MOTOR CARRIER TRANSFER **PROCEEDINGS**

June 15, 1960.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's general rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 30 days from the date of service of the order. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62956. By order of June 13, 1960, Division 4, Acting as an Appellate Division, approved the transfer to George L. Cammann, doing business as Calvert Transfer, Kearney, Nebr., of the operating rights in Certificate No. MC 75922, issued June 14, 1941, to Halver Edwin Ray, doing business as H. E. Ray, Elm Creek, Nebr., authorizing the transportation, over irregular routes, of coal, truck bodies, salt, livestock, agricultural commodities, feed, and household goods, from, to, and between specified points in Colorado, Nebraska, Iowa, and Kansas. John C. Mitchell, 2415 Central Avenue, Kearney, Nebr., for applicants.

[SEAL]

HAROLD D. McCOY. Secretary.

Tariff: Supplement 6 to Midwest [F.R. Doc. 60-5638; Filed, June 17, 1960; 8:50 a.m.]

### DEPARTMENT OF LABOR

### Wage and Hour Division LEARNER EMPLOYMENT **CERTIFICATES**

#### Issuance to Various Industries

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulations on employment of learners (29 CFR Part 522), and Administrative Order No. 524 (24 F.R. 9274) the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (§§ 522.1 to 522.11) are as indicated below. Conditions provided in certificates issued under special industry regulations are as established in these regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.20 to 522.24, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

C & D Sportswear Corp., Adel, Ga.; effective

6-6-60 to 6-5-61 (men's sport shirts).

Don Juan Manufacturing Corp., 113 Grubb Street, Hertford, N.C.; effective 6-6-60 to 6-5-61 (men's and boys' shirts).

Greenwood Shirt Co., Montague Street, Extension, Greenwood, S.C.; effective 6-2-60 to 6-1-61 (women's garments).

Grifton Manufacturing Co., Grifton, N.C.; effective 6-1-60 to 5-31-61 (boys' zippered jackets).

Moulton Manufacturing Corp., Moulton-Decatur Highway, Moulton, Ala.; effective 6-3-60 to 6-2-61 (men's and boys' sport shirts)

Phillips-Van Heusen Corp., Patton, Pa.; effective 6-2-60 to 6-1-61 (dress shirts).

Vandalia Garment Co., Bowling Green,

Mo.; effective 6-3-60 to 6-2-61 (ladies' dresses).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Angelica Uniform Co., Winfield, Mo.; effective 6-5-60 to 6-4-61; 10 learners (men's washable cotton service uniform coats).

Apparel, Inc., Center Street, Mebane, N.C.; effective 6-1-60 to 5-31-61; five learners (children's dresses).

Dan Dee Manufacturing Co., Main and Locust Streets, Gallitzin, Pa.; effective 6-6-60 to 6-5-61; 10 learners (children's garments).

Hunter Brothers Co., Inc., Statesville, N.C.; effective 6-4-60 to 6-3-61; 10 learners (men's sport shirts).

Old Hickory Co., Inc., 39 Second Street Place, SW., Hickory, N.C.; effective 6-1-60 to 5-31-61; 10 learners (overalls, dungarees, coveralls, work pants and slacks; ladies' dungarees and pedal pushers, etc.).

Ruth Originals Corp., 2029 Asheville Highway, Hendersonville, N.C.; effective 6-6-60 to 6-5-61; 10 learners (children's dresses).

Spruce Manufacturing Corp., Second and Spruce Streets, Sunbury, Pa.; effective 6-12-60 to 6-11-61; 10 learners (ladies' underwear).

Stanro Dress Co., Inc., 810 George Street, Throop, Pa.; effective 5-31-60 to 5-30-61; five learners (ladies' and children's dresses).

Theresa Dress Co., Inc., 219 Pine Street., Old Forge, Pa.; effective 6-6-60 to 6-5-61; five learners (ladies' dresses).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Blue Bell, Inc., Arab, Ala.; effective 6-1-60 to 11-30-60; 50 learners (boys' and men's cotton denim dungarees).

C & D Sportswear Corp., Adel, Ga.; effective 6-6-60 to 12-5-60; five learners (men's sport shirts).

Delta Shirt Manufacturing Co., Inc., 550 Ninth Street, Douglas, Ariz.; effective 6-2-60 to 12-1-60; 20 learners (men's and boys' sport shirts).

Grifton Manufacturing Co., Grifton, N.C.; effective 6-1-60 to 11-30-60; 30 learners (boys' zippered jackets).

Lake Butler Apparel Co., Lake Butler, Fla.; effective 6-10-60 to 12-9-60; 25 learners (men's cotton and rayon walking shorts).

Shadowline, Inc., Boone, N.C.; effective 6-6-60 to 12-5-60; 15 learners (women's woven fabric gowns).

Vandalia Garment Co., Bowling Green, Mo.; effective 6-3-60 to 12-2-60; 15 learners (ladies' dresses).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.60 to 522.66, as amended).

Lambert Manufacturing Co., Inc., Plant No. 1, 501 Jackson Street, Chillicothe, Mo.; effective 6-6-60 to 6-5-61; 10 learners for normal labor turnover purposes (cotton work gloves).

North Star Glove Co., Inc., 2317 Pacific Avenue, Tacoma, Wash.; effective 5-31-60 to 5-30-61; six learners for normal labor turnover purposes (canton and leather-faced work gloves).

Riegel Textile Corp., Brundidge, Ala.; effective 6-6-60 to 6-5-61; 10 percent of the total number of factory production workers for normal labor turnover purposes (work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.11, as amended, and 29 CFR 522.40 to 522.44, as amended).

The Batesville Co., Batesville, Miss.; effective 6-18-60 to 6-17-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Betterwear Hosiery Mill, Inc., Central Avenue and East Third Street, Catawba, N.C.; effective 6-1-60 to 11-30-60; 10 learners for plant expansion purposes (seamless).

Betterwear Hosiery Mill, Inc., Central Avenue and East Third Street, Catawba, N.C.; effective 6-1-60 to 5-31-61; five learners for normal labor turnover purposes (seamless).

Selma Hosiery Co., Dillon, S.C.; effective 6-2-60 to 6-1-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Selma Hosiery Co., Dillon, S.C.; effective 6-2-60 to 12-1-60; 50 learners for plant expansion purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.11, as

amended, and 29 CFR 522.30 to 522.35, as amended).

Chadbourn Textlles, Inc., Chadbourn, N.C.; effective 6-1-60 to 11-30-60; 20 learners for plant expansion purposes (men's and boys' knit tee shirts and sport shirts).

Hunter Brothers Co., Inc., Statesville, N.C.; effective 6-4-60 to 6-3-61; five learners for normal labor turnover purposes in the production of woven undershorts only.

Junior Form Lingerie Corp., Atkinson Way, Boswell, Pa.; effective 6-3-60 to 6-2-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (ladies' underwear).

Mode O'Day Corp., 840 12th Street NW., Mason City, Iowa; effective 6-6-60 to 6-5-61; five learners for normal labor turnover purposes (ladies' lingerie).

William Caplin Plant, Seamprufe, Inc., Holdenville, Okla.; effective 5-31-60 to 5-30-61; 5 percent of the total number of factory production workers for normal labor turnover purposes (slips and lingerie).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.11, as amended).

Darwood Manufacturing Co., Inc., 18 Pocasset Street, Fall River, Mass.; effective 5-31-60 to 11-30-60; 5 percent of the total number of factory production workers for normal labor turnover purposes in the occupation of sewing machine operator for a learning period of 480 hours at the rates of at least 90 cents an hour for the first 280 hours and not less than 95 cents an hour for the remaining 200 hours (boys' clothing—outerwear).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Alfredo Manfuacturing Corp., Rio Grande, P.R.; effective 5-16-60 to 9-21-60; 10 learners for normal labor turnover purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours (replacement certificate) (men's cotton pajamas).

Antilles Leatherwear, Inc., Caguas, P.R.; effective 5-16-60 to 1-19-61; 5 learners for normal labor turnover purposes in the occupation of machine sewers on leather for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours (replacement certificate) (leather jackets).

The Bravada Corp., Arecibo, P.R.; effective 5-16-60 to 2-28-61; 25 learners for normal labor turnover purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (replacement certificate) (tee shirts and briefs).

Coral Mfg. Corp., 56 Cristy Street, Mayaguez, P.R.; effective 5-16-60 to 7-17-60; 25 learners for plant expansion purposes in the occupations of: (1) sewing machine operators, and final pressing, each for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours; (2) pressing other than final pressing, trimming machine operators, each for a learning period of 160 hours at the rate of 60 cents an hour

(replacement certificate) (men's work pants).

Ocean Knitwear Corp., Caguas, P.R.; effective 5-16-60 to 7-10-60; 60 learners for plant expansion purposes in the occupations of: (1) sewing machine operators, and final pressing, each for a learning period of 480 hours at the rates 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments, and snap press operators, each for a learning period of 160 hours at the rate of 57 cents an hour (replacement certificate) (polo and knitted fabric sport shirts).

Porto Corp., Division "A", Road to Lares, Utuado, P.R.; effective 5-16-60 to 10-3-60; 80 learners for plant expansion purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (replacement certificate) (men's and boys' T-shirts).

Porto Corp., Division "B", Road to Lares, Arecibo, P.R.; effective 5-16-60 to 8-31-60; 30 learners for plant expansion purposes in the occupations of: (1) sewing machine operators for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments for a learning period of 160 hours at the rate of 57 cents an hour (replacement certificate) (men's athletic shorts).

Puerto Rico Industrial Manufacturing Corp., Manati, P.R.; effective 5-16-60 to 3-31-61; 10 learners for normal labor turnover purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours (replacement certificate) (work pants and shirts).

Puerto Rico Industrial Manufacturing Corp., Manati, P.R.; effective 5-16-60 to 9-30-60; 40 learners for plant expansion purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours (replacement certificate) (men's work pants and shirts).

Rio Grande Manufacturing Corp., Rio Grande, P.R.; effective 5-18-60 to 5-6-61; 12 learners for normal labor turnover purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours (replacement, certificate) (men's shorts)

(replacement certificate) (men's shorts). Rio Grande Manufacturing Corp., Rio Grande, P.R.; effective 5-7-60 to 5-6-61; 12 learners for normal labor turnover purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 54 cents an hour for the first 240 hours and 63 cents an hour for the remaining 240 hours (men's shorts).

Sportee Corp. of America, Ponce, P.R.; effective 5-16-60 to 1-31-61; 5 learners for normal labor turnover purposes in the occupations of sewing machine operators, and final pressers, each for a learning period of 480 hours at the rates of 57 cents an hour for the first 240 hours and 66 cents an hour for the remaining 240 hours (replacement certificate) (boys' girls', and ladles' polo shirts).

tificate) (boys', girls', and ladies' polo shirts).
Trouser Corp. of Puerto Rico, Fajardo,
P.R.; effective 5-16-60 to 12-10-60; 15
learners for normal labor turnover purposes
in the occupations of: (1) sewing machine
operators, final pressing, hand sewing, and
finishing operations involving hand sewing,

each for a learning period of 480 hours at the rates of 60 cents an hour for the first 240 hours and 70 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garments, machine operations other than sewing machine, and pressing other than final pressing, each for a learning period of 160 hours at the rate of 60 cents an hour (replacement certificate) (men's and boys' semi-dress trousers).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at subminimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9.

Signed at Washington, D.C., this 9th day of June 1960.

ROBERT G. GRONEWALD,
Authorized Representative of the
Administrator.

[F.R. Doc. 60-5627; Filed, June 17, 1960; 8:49 a.m.]

### **CUMULATIVE CODIFICATION GUIDE—JUNE**

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### Announcement

### **CFR SUPPLEMENTS**

(As of January 1, 1960)

The following is now available:

### Title 32, Parts 1000–1099, Revised\_\_\_\_\_\_\$6.50

Previously announced: Title 3 (\$0.60); Titles 4-5 (\$1.00); Title 7, Parts 1-50 (\$0.45); Parts 51-52 (\$0.45); Parts 53-209 (\$0.40); Parts 210-399, Revised (\$4.00); Parts 900-959 (\$1.50); Part 960 to End (\$2.50); Title 8 (\$0.40); Title 9 (\$0.35); Titles 10–13 (\$0.50); Title 14, Parts 1–39 (\$0.65); Titles 10—13 (\$0.50); Title 14, Parts 1—39 (\$0.65);
Title 15 (\$1.25); Title 16, Revised (\$6.50); Title 17 (\$0.75); Title 18 (\$0.55); Title 19 (\$1.00);
Title 20 (\$1.25); Title 21 (\$1.50); Titles 22—23 (\$0.45); Title 24 (\$0.45); Title 25 (\$0.45); Title 26 (1939), Parts 1—79 (\$0.40); Parts 80—169 (\$0.35); Parts 170—182 (\$0.35); Parts 300 to End (\$0.40); Title 26, Part 1 (\$\$ 1.01-1.499) (\$1.75); Parts 1 (\$ 1.500 to End)-19 (\$2.25); Parts 20-Parts 1 (§ 1.500 to End)—19 (\$2.25); Parts 20—169 (\$1.75); Parts 170—221 (\$2.25); Part 300 to End (\$1.25); Titles 28—29 (\$1.75); Titles 30—31 (\$0.50); Title 32, Parts 1—399 (\$2.00); Parts 400—699 (\$2.00); Parts 700—799 (\$1.00); Parts 800-999, Revised (\$3.75); Part 1100 to End (\$0.60); Title 33 (\$1.75); Title 35, Revised (\$3.50); Title 36, Revised (\$3.00); Title 37, Revised (\$3.50); Title 38 (\$1.00); Title 39 (\$1.50); Title 42, Revised (\$4.00); Title 43 (\$1.00); Title 46, Parts 1-145 (\$1.00); Parts 146-149, Revised (\$6.00); Part 150 to End (\$0.65); Title 47, Parts 1-29 (\$1.00); Part 30 to End (\$0.30); Title 49, Parts 1-70 (\$1.75); Parts 71-90 (\$1.00); Parts 91-164 (\$0.45); Part 165 to End (\$1.00); Title 50 (\$0.70).

2121\_\_\_\_\_\_ 5391 Order from the Superintendent of Documents, 2122\_\_\_\_\_ 5391 Government Printing Office, Washington 25, D.C.